

**STATE WATER RESOURCES CONTROL BOARD
PUBLIC HEARING – DIVISION OF WATER RIGHTS
JULY 7, 2009**

ITEM 10

SUBJECT:

CONSIDERATION OF A PROPOSED RESOLUTION ADOPTING A STAFF REPORT ON THE PERIODIC REVIEW OF THE 2006 BAY DELTA WATER QUALITY CONTROL PLAN

DISCUSSION:

Under its authority to adopt statewide policy for water quality control planning to protect the beneficial uses of water, the State Water Board adopted the 2006 Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta Plan) on December 13, 2006, in [Resolution No. 2006-0098](#). The Bay-Delta Plan identifies beneficial uses of the Bay-Delta, including Suisun Marsh, flow objectives and flow-related water quality objectives for the reasonable protection of those beneficial uses, and a program of implementation for achieving the objectives.

The California Water Code requires that water quality control plans be periodically reviewed. The federal Clean Water Act requires a triennial review of state water quality standards. Accordingly, the State Water Board is conducting this review of the Bay-Delta Plan. Adoption of this report marks completion of the periodic review.

The State Water Board initiated its periodic review of the Bay-Delta Plan on August 29, 2008, by issuing a notice of public workshop to receive comments from agencies and members of the public regarding potential modifications of the Bay-Delta Plan. In addition to the information received at the workshop, State Water Board staff also reviewed scientific literature and other pertinent information to develop recommendations concerning what issues should be further evaluated during the water quality control planning process.

This Staff Report identifies water quality issues that should be addressed through the water quality control planning process. It recommends investigating whether certain existing elements of the Bay-Delta Plan should be revised, and identifies potential new elements that should be considered for inclusion in the Bay-Delta plan. The Staff Report recommends further review of the following subjects in the water quality control planning process:

- Delta Outflow Objectives
- Export/Inflow Objectives
- Delta Cross Channel Gate Closure Objectives
- Suisun Marsh Objectives
- Reverse Flow Objectives
- Floodplain Habitat Flow Objectives
- Changes to the Monitoring and Special Studies Program
- Other Changes to the Program of Implementation

The Staff Report also identifies issues that should not be considered further in this water quality control planning process, but should instead be addressed through other venues. The Draft Staff Report provides recommendations regarding several of the most significant issues of concern in the Bay-Delta watershed that could be addressed in the Bay-Delta Plan. The Staff Report does not provide recommendations for all elements of the Bay-Delta Plan or other potential issues. Additional issues may be considered for potential water quality control plan amendment at a later date, as appropriate. The Staff Report also reiterates the State Water Board's commitment to continue ongoing water quality control planning efforts relating to southern Delta salinity and San Joaquin River flows. Water quality control planning activities related to the pelagic organism decline (POD) and climate change will also be encompassed in the water quality control planning activities for all of the objectives being reviewed. As appropriate, additional objectives may also be considered to address the POD and climate change during the water quality control planning process.

While the Staff Report recommends that certain issues be further reviewed in the water quality control planning process, such a recommendation does not necessarily mean that changes will be made to the Bay-Delta Plan related to these issues. Further, the State Water Board may review and consider other changes to the Bay-Delta Plan not included in the above list if new information warrants such a review. If the State Water Board adopts all or a portion of the recommendations in the Staff Report, a workshop on specific Bay-Delta Plan amendments or revisions will be held later in 2009. Following the workshop, the State Water Board staff will prepare plan amendments or a revised plan, including appropriate environmental documentation in accordance with the California Environmental Quality Act.

POLICY ISSUES:

Should the State Water Board approve the proposed Resolution?

FISCAL IMPACT:

The fiscal impact of conducting the identified activities is difficult to quantify at this point due in part to current uncertainty regarding to what extent the State Water Board will be able to take into account relevant analyses conducted for the Bay Delta Conservation Plan process and other sources in the Board's planning and environmental review efforts. Per the 2008 Strategic Workplan for Activities in the San Francisco Bay/ Sacramento-San Joaquin Estuary (Workplan) approved by the State Water Board in July 2008, 4 or 5 personnel years (PYs) per year will be needed for one to two years to conduct this comprehensive review. In addition, the Workplan commits to a review and potential amendment of the southern Delta salinity and San Joaquin River flow objectives. Per the Workplan, 3 PYs per year for two years and \$2.7 million in contract resources will be needed to conduct the southern Delta salinity and San Joaquin River flow work. The salinity and flow work is being accelerated to complete the work with 6 PYs in one year. The funding necessary for this project will be available once work begins.

REGIONAL BOARD IMPACT:

It is unclear to what degree the Central Valley Regional Water Board and San Francisco Bay Regional Water Board (Regional Boards) will be impacted by passage of the resolution. The Workplan identifies resources the Regional Boards need to complete ammonia and toxicity work identified in the Workplan at the time it was adopted. It is now clear, however, that additional work will be required beyond that identified in the Workplan to fully address ammonia and toxicity issues in the Delta. The Staff Report recommends that the Regional Boards continue to address ammonia and toxicity issues through their existing and planned efforts. Central Valley

Regional Water Board has identified the need for an additional 3.0 PYs and \$1.15 million in contract funds per year for work related to ammonia and toxicity issues. Funding to address this need has not been identified.

STAFF RECOMMENDATION:

The staff recommends that the State Water Board adopt the proposed Resolution.

State Water Board action on this item will assist the Water Boards in reaching Goals 1 and 4 of the Water Board's Strategic Plan: (Goal 1) Implement strategies to fully support the beneficial uses for all 2006-listed water bodies by 2030; and (Goal 4) to comprehensively address water quality protection and restoration and the relationship between water supply and water quality, and describe the connections between water quality, water quantity, and climate change, throughout California's water planning processes.

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STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2009-

ADOPTION OF THE 2009 STAFF REPORT ON THE PERIODIC REVIEW OF THE 2006 WATER QUALITY CONTROL PLAN FOR THE SAN FRANCISCO BAY/SACRAMENTO-SAN JOAQUIN DELTA ESTUARY

WHEREAS:

1. The State Water Resources Control Board (State Water Board) is responsible for the regulation of activities and factors that may affect the quality of the waters of the State (Wat. Code §§ 13000, 13001).
2. The State Water Board adopted a water quality control plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta Plan or Plan) in [Resolution 2006-0098](#). The Bay-Delta Plan was adopted by the State Water Board to establish water quality control measures that contribute to the protection of beneficial uses in the San Francisco Bay/Sacramento-San Joaquin Delta Estuary.
3. The California Water Code and the federal Clean Water Act require, respectively, a periodic and a triennial review of water quality objectives or standards under Water Code sections 13170 and 13240 and under section 303(c)(1) of the federal Clean Water Act (33 USC § 1313(c)(1)).
4. The State Water Board began this review of the Bay-Delta Plan by issuing a notice of public workshop on August 29, 2008. The State Water Board accepted written comments through October 1, 2008, and held a public workshop on October 8, 2008.
5. Pursuant to a commitment included in the State Water Board's 2008 Strategic Workplan for Activities in the San Francisco Bay/ Sacramento-San Joaquin Estuary, at the same time the State Water Board issued the notice for the periodic review, it made a request for written input on critical factual issues regarding the Bay-Delta's ecology and the impacts of water pollution and diversions.
6. State Water Board staff have prepared a Draft Staff Report considering information received as part of this periodic review process and from scientific literature and other pertinent sources, including comments related to the request for written input on critical factual issues regarding the Bay-Delta's ecology and the impacts of water pollution and diversions.
7. Based on review of the comments and information, as well as analysis of the issues, the Draft Staff Report recommends that the State Water Board conduct further review in the water quality control planning process of the following:
 - Delta Outflow Objectives
 - Export/Inflow Objectives
 - Delta Cross Channel Gate Closure Objectives
 - Suisun Marsh Objectives
 - Reverse Flow Objectives (Old and Middle River Flow Objectives)
 - Floodplain Habitat Flow Objectives

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- Changes to the Monitoring and Special Studies Program
 - Other Changes to the Program of Implementation
8. The Draft Staff Report also includes a discussion of two issues that have already been identified for further review in the water quality control planning process: southern Delta salinity and San Joaquin River flow objectives.
 9. The Draft Staff Report does not recommend further reviewing ammonia, toxicity, fish screens, and biological indicators in this water quality control planning process, but instead addressing those subjects as recommended in the report.
 10. According to the Draft Staff Report, State Water Board staff will immediately begin a detailed review of the issues that the Board has determined should receive further consideration, including holding one or more additional California Environmental Quality Act (CEQA) scoping meetings and water quality control planning workshops.
 11. Based on the information received during the periodic review, any additional information received during future workshops, and other available scientific information, State Water Board staff will develop recommendations for any needed changes to the Bay-Delta Plan. Staff will prepare draft Plan amendments or a draft revised Plan for consideration by the State Water Board and any environmental documentation required under CEQA. At that time, interested persons will have the opportunity, at a public hearing, to comment on staff's recommendations and on the environmental analysis.
 12. After the hearing, State Water Board staff will prepare responses to comments. Subsequently, the State Water Board will hold a Board meeting to consider adopting any proposed changes.

THEREFORE, BE IT RESOLVED:

That the State Water Board adopts the [Staff Report](#) on the Periodic Review of the 2006 Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary and authorizes the Executive Director to transmit the Staff Report to the U.S. Environmental Protection Agency, Region 9, in compliance with section 303(c)(1) of the federal Clean Water Act.

CERTIFICATION

The undersigned Clerk 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 July 7, 2009.

Jeanine Townsend
Clerk to the Board