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State Water Resources Control Board

## NOTICE OF CONTINUATION OF STAFF WORKSHOP

### PROPOSED PART 2 OF THE WATER QUALITY CONTROL PLAN FOR INLAND SURFACE WATERS, ENCLOSED BAYS, AND ESTUARIES OF CALIFORNIA—TRIBAL AND SUBSISTENCE FISHING BENEFICIAL USES AND MERCURY PROVISIONS

#### RELATIONSHIP BETWEEN INSTREAM FLOWS AND THE PROPOSED BENEFICIAL USES

**NOTICE IS HEREBY GIVEN** that the State Water Resources Control Board (State Water Board) will continue the January 9, 2017 staff workshop on the proposed Part 2 of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California—Tribal and Subsistence Fishing Beneficial Uses and Mercury Provisions (referred to as the Provisions) to discuss the relationship between the proposed beneficial uses and potential instream flow requirements. The staff workshop will be:

**February 1, 2017**  
10:00 a.m. – 12:30 p.m.  
Joe Serna Jr. - CalEPA Headquarters Bldg.  
Sierra Hearing Room  
1001 I Street, Second Floor  
Sacramento, CA 95814

#### BACKGROUND

State Water Board staff held a workshop on January 9, 2017 to explain the draft regulatory language and facilitate public comments. Staff is continuing that workshop to discuss potential instream flow or water supply implications that could be associated with the designation of the proposed beneficial uses, including the Tribal Tradition and Culture, Tribal Subsistence Fishing, and Subsistence Fishing beneficial uses. At the staff workshop, staff will present information focusing on the interplay between the proposed beneficial uses and potential instream flow requirements, and the process by which protection of such uses would occur.

Note that this workshop will be conducted by staff, but less than a quorum of board members may be present. No board action will be taken at the conclusion of the workshop.

#### THE TRIBAL SUBSISTENCE FISHING AND SUBSISTENCE FISHING BENEFICIAL USE

The Provisions include Tribal Subsistence Fishing and Subsistence Fishing beneficial uses. These uses are intended to protect people who consume fish in higher than average amounts from the harmful effects of contaminants. These beneficial uses are not intended to protect or enhance fish populations or aquatic habitats. Fish populations and aquatic habitats are protected and enhanced by other beneficial uses, including but not limited to, Aquaculture, Warm Freshwater Habitat, and Cold Freshwater Habitat, that are designed to support aquatic

habitats for the reproduction or development of fish. These beneficial uses, therefore, would not implicate instream flows.

### **THE TRIBAL TRADITION AND CULTURE BENEFICIAL USE**

It is possible that certain tribal traditional and cultural uses depend on certain water flows, or that sufficient water quality is attainable only through dilution of pollutants. Creating a new beneficial use definition for tribal traditional and cultural use of surface waters does not in and of itself have flow implications. Any future designation of the Tribal Tradition and Culture beneficial use for a specific water body would take place in the context of a water quality control planning process, with associated supporting information and public participation. This process would include the opportunity to examine whether the designation may subsequently result in instream flow requirements, and the implications of any such flow requirements.

With the exception of the Water Quality Control Plan for the San Francisco Bay-Sacramento San Joaquin Delta Estuary, it is not common for the Water Boards to adopt flow standards to protect beneficial uses as part of a water quality control planning process. The Water Boards do, however, consider the relevant water quality control plans when taking other actions, such as reviewing applications to appropriate water, petitions for change of water rights, or applications for water quality certifications under Clean Water Act section 401. Through those actions, the Water Boards may include conditions necessary to protect beneficial uses. Regardless of whether any particular beneficial uses are designated in a water quality control plan, the State Water Board, through its public trust and public interest authorities, has the authority to protect all existing uses of waters.

This workshop will provide an opportunity to discuss these issues in greater detail.

### **DOCUMENT AVAILABILITY**

The Provisions and Draft Staff Report, including the Draft SED, and information are available on the State Water Board's web site at:

[http://www.waterboards.ca.gov/water\\_issues/programs/mercury](http://www.waterboards.ca.gov/water_issues/programs/mercury).

You may request a paper copy of the proposed Provisions by calling Zane Poulson at (916) 341-5488 or by calling Jacob Iversen at (916) 341-5479 or via email at [MercuryProvisions@waterboards.ca.gov](mailto:MercuryProvisions@waterboards.ca.gov).

### **SUBMISSION OF WRITTEN COMMENTS**

State Water Board staff will also accept input and recommendations through written comments. Written comments must be received no later than **12:00 noon on Friday, February 17, 2017** and addressed to:

Jeanine Townsend, Clerk to the Board  
State Water Resources Control Board  
P.O. Box 100, Sacramento, CA 95812-2000 (mail)  
1001 I Street, 24th Floor, Sacramento, CA 95814 (hand-delivery)  
Sacramento, CA 95814

Comment letters may be submitted electronically, in pdf text format (if less than 15 megabytes in total size), to the Clerk to the Board via e-mail at [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov). If the file is greater than 15 megabytes in total size, then the comment letter may be submitted by fax at (916) 341-5620. Please indicate in the subject line: "**Comment Letter -- Beneficial Uses and Mercury Objectives**".

Couriers delivering hard copies of comment letters must check in with lobby security personnel, who can contact Ms. Townsend at (916) 341-5600.

### **CALIFORNIA ENVIRONMENTAL QUALITY ACT**

This is to advise that the State Water Board is proposing to adopt the Provisions in accordance with a regulatory program exempt under section 21080.5 of the Public Resources Code from the requirement to prepare an environmental impact report under the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) and with other applicable laws and regulations.

### **PARKING AND ACCESSIBILITY**

For directions to the Joe Serna, Jr. (CalEPA) Building and public parking information, please refer to the map on the State Water Board Web site:

<http://www.calepa.ca.gov/EPAbldg/location.html>.

The CalEPA Building is accessible to persons with disabilities. Individuals requiring special accommodations are requested to call (916) 341-5880 at least 5 working days prior to the meeting. TDD users may contact the California Relay Service at (800) 735-2929 or voice line at (800) 735-2922. Video and audio broadcasts of the meeting will be available via the internet and can be accessed at: <https://video.calepa.ca.gov/>.

All visitors to the CalEPA Building are required to sign in and obtain a badge at the Visitor Services Center located just inside the main entrance (10th Street entrance). Valid picture identification may be required. Please allow up to 15 minutes for receiving security clearance.

### **FUTURE NOTICES**

The State Water Board continued staff workshop will be at the time and place noted above. Any change in the date, time, or place of the staff workshop will be noticed on the Lyris e-mail list. Any person desiring to receive future notices concerning the Provisions, including any changes to the notice of public comment, staff workshop, and public hearing and the subsequent meeting for the State Water Board's consideration of adoption, must sign up for a Lyris e-mail list. To sign up for a Lyris list, access the email List Subscription Form at the web address listed below, at the "Water Quality" tab, by checking the box for "Mercury – Statewide Provisions":

[http://www.waterboards.ca.gov/resources/email\\_subscriptions/swrcb\\_subscribe.shtml](http://www.waterboards.ca.gov/resources/email_subscriptions/swrcb_subscribe.shtml).

### **ADDITIONAL INFORMATION**

Please direct questions about this notice calling Zane Poulson at (916) 341-5488 or by calling Jacob Iversen at (916) 341-5479 or via email at [MercuryProvisions@waterboards.ca.gov](mailto:MercuryProvisions@waterboards.ca.gov).

January 20, 2017