

**STATE WATER RESOURCES CONTROL BOARD  
BOARD MEETING – DIVISION OF WATER RIGHTS  
DECEMBER 13, 2006**

**ITEM: 12**

**SUBJECT**

CONSIDERATION OF A RESOLUTION ADOPTING THE [AMENDED WATER QUALITY CONTROL PLAN](#) FOR THE SAN FRANCISCO BAY/SACRAMENTO-SAN JOAQUIN DELTA ESTUARY

**DISCUSSION**

The watershed of the Bay-Delta Estuary is a critical source of water supply for much of California. The watershed is a source of drinking water for two-thirds of the State's population; it supplies some of the State's most productive agricultural areas; and it provides water for fish, wildlife, and other public trust uses of water within and upstream of the Estuary. The State Water Project (SWP) and the federal Central Valley Project (CVP) are the largest water distribution systems that release stored water into the Delta and directly divert water from the Delta. Numerous other water storage and diversion projects also influence inflows into and outflows from the Bay-Delta Estuary.

The State Water Board (Board) regulates both the quality of water in the Bay-Delta Estuary and the diversion and use of water released into and diverted from the Bay-Delta Estuary for water supply. Under its water quality authority, the Board maintains the Bay-Delta Plan to regulate various water quality constituents that can be controlled partially or entirely by the flow of water through the Estuary. The Board partially implements the Bay-Delta Plan through conditions on water right permits and licenses. The Board adopted the current Bay-Delta Plan in May 1995. The Board completed a review of the 1995 Bay-Delta Plan on September 30, 2004, and subsequently conducted workshops to receive information concerning issues identified as potentially meriting plan amendments. On November 13, 2006, the Board conducted a hearing on the draft amended Bay-Delta Plan. The proposed changes are specified in the Plan Amendment Report (Appendix 1) accompanying the draft amended Bay-Delta Plan. As a result of the workshops and additional information, the Board will consider adopting the amended Bay-Delta Plan.

The regulatory portions of the amended Bay-Delta Plan will be submitted to the Office of Administrative Law for approval, and to the United States Environmental Protection Agency.

**POLICY ISSUE**

Should the State Water Board adopt the amended Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary?

**FISCAL IMPACT**

None.

**REGIONAL BOARD IMPACT**

None.

**STAFF RECOMMENDATION**

Staff recommends adoption of the proposed resolution.

## STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2006-

### ADOPTION OF THE AMENDED 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 has undertaken a proceeding under its water quality authority to amend the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta Plan) adopted in 1978 and amended in 1991 and in 1995.
3. The State Water Board commenced this proceeding on September 29, 2006 by issuing a notice of public hearing for Consideration of an Amended Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary, to commence on November 13, 2006. The draft amended Bay-Delta Plan and accompanying appendices, including environmental documentation, accompanied the Notice of Public Hearing.
4. Prior to commencing this proceeding, the State Water Board conducted a series of workshops in 2004 and 2005 to receive information on specific topics addressed in the Bay-Delta Plan. The State Water Board sent notice of all workshops to all parties who indicated an interest in receiving notice.
5. The amended Bay-Delta Plan consists of four volumes, including the Plan, Appendix 1 (Plan Amendment Report), Appendix 2 (Referenced Documents), and Appendix 3 (Response to Comments).
6. The amended Bay-Delta Plan was prepared under a program certified at California Code of Regulations, title 14, section 15251(g) as meeting the requirements of Public Resources Code section 21080.5. Accordingly, the amended Bay-Delta Plan with its appendices constitutes adequate environmental analysis to satisfy the requirements of the California Environmental Quality Act (CEQA) at Public Resources Code section 21000, et seq.
7. The State Water Board has considered all of the oral and written comments that were submitted and, in accordance with the State Water Board's regulations (Cal. Code Regs., tit. 23, § 3779), has prepared responses to the comments containing significant environmental points as well as responding to some other comments. The Plan and Appendix 1 of the Plan have been revised in response to the comments received from the interested parties, and Appendix 3 of the Plan has been added to respond to the comments.

8. The Bay-Delta Plan supplements the other water quality control plans that cover the Bay-Delta Estuary. Together they include all necessary elements of water quality control plans in accordance with Water Code sections 13241 and 13242 and federal requirements.
9. The Bay-Delta Plan will be reviewed periodically in compliance with Water Code section 13240 and federal Clean Water Act section 303(c) (33 U.S.C., § 1313(c)).
10. The amended Bay-Delta Plan will become effective after it is approved by the Office of Administrative Law (OAL). The water quality standards (as defined under the federal Clean Water Act) in the Plan also will be submitted to the U. S. Environmental Protection Agency (U.S. EPA) in accordance with the federal Clean Water Act (33 U.S.C., § 1251, et seq.). To the extent that any water quality standards, as defined, are amended, those standards would require U.S. EPA approval before the amended versions go into effect. In the view of the State Water Board, however, there are no substantive amendments to any water quality standards in the amended Bay-Delta Plan. Other portions of the Bay-Delta Plan, such as the program of implementation, are to be submitted to U.S. EPA as part of the continuing planning process, but do not require approval. The State Water Board does not concede that it is required under the federal Clean Water Act to submit all parts of this Plan to the U.S. EPA for approval. In the view of the State Water Board, the objectives for flow and operations are not subject to U.S. EPA approval, and are provided to U.S. EPA for its consideration as a matter of state/federal comity.

**THEREFORE BE IT RESOLVED THAT THE STATE WATER BOARD:**

1. Adopts the amended Bay-Delta Plan in accordance with Water Code section 13170, including Appendices 1, 2, and 3.
2. Authorizes the State Water Board staff to submit the amended Bay-Delta Plan to OAL and to U.S. EPA.

**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 December 13, 2006.

**DRAFT**

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Clerk to the Board