

**STATE WATER RESOURCES CONTROL BOARD  
BOARD MEETING SESSION - DIVISION OF WATER RIGHTS  
AUGUST 3, 2010**

**ITEM 12**

**SUBJECT:**

CONSIDERATION OF A PROPOSED RESOLUTION DETERMINING DELTA FLOW CRITERIA PURSUANT TO THE DELTA REFORM ACT

**DISCUSSION:**

In November 2009, California enacted a comprehensive water reform package intended to ensure a reliable water supply for the State and to restore the Delta and other ecologically sensitive areas. One of the bills included in this package, Senate Bill No. 1 (2009 7<sup>th</sup> Ex. Sess.), contains the Sacramento-San Joaquin Delta (Delta) Reform Act of 2009 (Delta Reform Act). The Delta Reform Act establishes a Delta Stewardship Council (Council), tasked with developing a management plan for the Delta, known as the Delta Plan, and providing direction to multiple State and local agencies that take actions related to the Delta. Water Code section 85086, contained in the Delta Reform Act, requires the State Water Resources Control Board (State Water Board) to use the best available scientific information gathered as part of a public process conducted as an informational proceeding to develop new flow criteria for the Delta ecosystem to protect public trust resources in the Delta. Water Code section 85086 requires the State Water Board to develop the flow criteria within nine months of enactment of the requirement and to submit its flow criteria determinations to the Council within 30 days of their development.

The State Water Board held an informational proceeding on March 22, 23, and 24, 2010, to receive scientific information concerning development of flow criteria for the Delta ecosystem. Using the best available scientific information submitted during the informational proceeding, the Delta flow criteria report was prepared with the State Water Board's determinations regarding the flows that protect public trust resources in the Delta. As required, the report includes the volume, timing, and quality of flow necessary under different hydrologic conditions. Specifically, the report includes criteria for Delta outflows, Sacramento River inflows, San Joaquin River inflows, hydrodynamics, and other measures. The report represents a technical assessment only of flow and operational requirements that provide fishery protection under existing conditions. The flow criteria contained in this report do not represent flows that might be protective under other conditions. None of the determinations in this report have regulatory or adjudicatory effect. In addition, nothing in this report amends or otherwise affects water rights. Further, the flow criteria in this report do not consider competing beneficial uses of water and do not predetermine any issue that may arise in the State Water Board's subsequent consideration of a permit. (Wat. Code, § 85086, subd. (c)(1).)

Upon approval of this report, the flow criteria will be submitted to the Council to inform the Delta Plan as required by Water Code section 85086. The flow criteria will also inform the Bay Delta Conservation Plan, a multispecies conservation plan being developed pursuant to the Endangered Species Act and the State Natural Community Conservation Planning Act. Finally, the flow criteria in this report will also inform the State Water Board's on-going and subsequent proceedings, including the review and development of flow objectives in the San Joaquin River, a comprehensive update to the Water Quality Control Plan for the San Francisco

Bay/Sacramento-San Joaquin Delta Estuary, and the associated water rights proceedings to implement these Bay-Delta Plan updates.

**POLICY ISSUES:**

Should the State Water Board adopt the proposed resolution adopting the Delta flow criteria report?

**FISCAL IMPACT:**

This activity is budgeted within existing resources, and no additional fiscal demands will occur as a result of approving this item.

**REGIONAL BOARD IMPACT:**

The Delta flow criteria report includes recommendations to the Central Valley and San Francisco Bay Regional Water Boards to continue to address water quality concerns in the Delta as appropriate. These recommendations are consistent with existing directives included in the Water Boards' 2008 Bay-Delta Strategic Workplan and other existing planning decisions and are budgeted within existing resources.

**STAFF RECOMMENDATION:**

Staff recommends that the State Water Board adopt the proposed resolution adopting the Delta flow criteria report.

State Water Board action on this item will assist the Water Boards in reaching Goal 4 of the Water Board's Strategic Plan: 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. This effort is also consistent with activities committed to in the Water Boards' Strategic Workplan for Activities in the Bay Delta: comprehensive review of the Bay-Delta Plan and other requirements to protect fish and wildlife beneficial uses and the public trust.

**STATE WATER RESOURCES CONTROL BOARD  
RESOLUTION NO. 2010-**

**DETERMINING DELTA FLOW CRITERIA PURSUANT TO THE DELTA REFORM ACT**

**WHEREAS:**

1. Water Code section 85086, contained in the Sacramento-San Joaquin Delta Reform Act of 2009 (Stats. 2009 (7th Ex. Sess.) ch. 5) (commencing with Wat. Code, § 85000), requires the State Water Resources Control Board (State Water Board) to develop, within nine months of enactment of the statute, new flow criteria for the Sacramento-San Joaquin Delta (Delta) ecosystem that are necessary to protect public trust resources. The purpose of the flow criteria is to inform planning decisions for the Delta Plan and the Bay Delta Conservation Plan. The statute specifies that the flow criteria shall not predetermine any issue that may arise in the State Water Board's subsequent consideration of a permit.
2. In accordance with Water Code section 85086, subdivision (c)(1), the State Water Board conducted a public process in the form of an informational proceeding to collect information used to develop the flow criteria. The State Water Board conducted the informational proceeding on March 22-24, 2010, and considered the information submitted in connection with that proceeding in developing the flow criteria.
3. The State Water Board has prepared a report determining flow criteria for the Delta ecosystem necessary to protect public trust resources. In developing the flow criteria, the State Water Board reviewed existing water quality objectives and used the best available scientific information. The flow criteria include the volume, timing, and quality of flow necessary under different hydrologic conditions.

**THEREFORE BE IT RESOLVED THAT:**

1. In accordance with the Delta Reform Act, the State Water Board approves the [report](#) determining new flow criteria for the Delta ecosystem that are necessary to protect public trust resources.

2. The Executive Director is directed to submit the Delta flow criteria report to the Delta Stewardship Council for its information within 30 days of the adoption of this resolution.

**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 Board held on August 3, 2010.

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Jeanine Townsend  
Clerk to the Board