

2019029138

Notice of Decision

TO: Wade Crowfoot
Secretary of the California Natural Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

FROM: State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

SUBJECT: Filing and Notice of Decision in compliance with Public Resources Code section 21080.5

Project Proponent: State Water Resources Control Board

Project Title: Amendments to The Water Quality Control Plan for The San Francisco Bay/Sacramento-San Joaquin Delta Estuary

Contact Person: Erin Foresman, Environmental Program Manager, (916) 341-5359

Project Location: San Francisco Bay/Sacramento-San Joaquin Delta Estuary watershed, particularly the Stanislaus River, Tuolumne River, Merced River, and the Lower San Joaquin River, areas that are contiguous to these areas, areas that receive a portion of their water supply from these areas, and the southern Delta.

Project Description: On December 12, 2018, the State Water Resources Control Board (State Water Board) adopted Resolution No. 2018-0059 amending the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta Plan).

The amendments establish new flow objectives that recognize the need for flows of an adequate volume and more variable pattern on the three major tributaries of the Lower San Joaquin River watershed to provide habitat and migratory signals and protections for native fish. Refined salinity objectives reflect updated scientific information about salt levels that reasonably protect farming in the southern Delta.

The amendments include the following provisions:

- a. Water quality objectives. Adopt new and revised narrative and numeric flow water quality objectives for the Lower San Joaquin River watershed, including the Stanislaus, Tuolumne, and Merced Rivers, (the LSJR flow objectives) to reasonably protect fish and wildlife beneficial uses. Adopt a revised salinity water quality objective for the southern Delta to reasonably protect agricultural beneficial uses in the southern Delta (the southern Delta salinity objective).
- b. Program of Implementation.
 1. Implementation measures within State Water Board Authority. Amend the program of implementation for the Lower San Joaquin River to implement the LSJR flow

objectives through water right or water quality actions. Describe how the State Water Board will exercise its authorities to: (i) ensure the required flows are used for their intended purpose; (ii) ensure that actions taken in response to implementation of the flow objectives do not result in unreasonable redirected groundwater impacts; (iii) require the development and implementation of minimum reservoir carryover storage targets or other requirements to help ensure that providing flows to meet the flow objectives will not have significant adverse temperature or other impacts on fish and wildlife or, if feasible, on other beneficial uses; and (iv) ensure that implementation of the flow objectives does not impact supplies of water for minimum health and safety needs. The program of implementation allows adaptive adjustments to the required flows where criteria are met and specifies the information, procedures, plans, and comprehensive monitoring and evaluation needed to inform implementation, compliance, and effectiveness of the program of implementation in meeting the flow objectives. The program of implementation allows the State Water Board to authorize a temporary change in the implementation of the flow objectives in defined states of emergencies. It recognizes that voluntary agreements may serve as an implementation mechanism for the flow objectives.

2. Measures Requiring a Combination of State Water Board Authorities and Actions by Other Agencies. Amend the program of implementation to implement the southern Delta salinity objective to describe the actions necessary to achieve the objective and the monitoring, special studies, and reporting requirements that the State Water Board will require to evaluate compliance with the objective and to obtain additional information to inform implementation of the objective and understanding of salinity conditions in the southern Delta. Update the information on the efforts, projects, and actions undertaken by other agencies that will or may assist in implementing the southern Delta salinity objective.
3. Recommendations to Other Agencies. Amend the program of implementation to recommend that other agencies and parties implement non-flow actions in the San Joaquin River watershed that are complementary to the LSJR flow objectives.

In addition, the amendments update introductory information in the Bay-Delta Plan to reflect the new and revised flow water quality objectives for the Lower San Joaquin River and its tributaries and the revised salinity water quality objectives for the southern Delta and make other conforming changes.

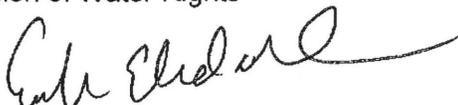
This is to advise that the State Water Resources Control Board has made the following determination regarding the above described project.

The project has been:

Approved
 Disapproved

Date Received for Filing: _____

Erik Ekdahl
Deputy Director
Division of Water Rights



Governor's Office of Planning & Research

FEB 26 2019

STATE CLEARINGHOUSE



STATE OF CALIFORNIA
 DEPARTMENT OF FISH AND WILDLIFE
ENVIRONMENTAL FILING FEE CASH RECEIPT
 DFG 753.5a (01/2002)

Receipt No: **4089**

Date: **2/11/2019**

Lead Agency: **State Water Resources Control Board**
 State Agency of Filing: **Department of Fish and Wildlife**
 Project Title: **For approval and certification of the Sub**

Invoice Date:

Document No: **210747**

Deposit No: **2379001000**

State Water Resources Control Board
 PO Box 100
 Sacramento, CA 95812

Project Applicant Name
 Project Applicant Address:
 City, State, Zip

Project Applicant (check appropriate box) Local Public Agency School District Other Special District
 State Agency Private Entity

APPLICABLE FEES:

Environmental Impact Report:	\$0.00
Negative Declaration:	\$0.00
Application Fee Water Diversion (State Water Resources Control Board Only):	\$0.00
Projects Subject to Certified Regulatory Programs	\$1,112.00
Lien fee:	\$0.00
Penalty:	\$0.00
County Administrative Fee:	\$0.00
<input type="checkbox"/> Project exempt from fees	\$0.00
Total Received	\$1,112.00

Person receiving payment: Valeriya Kryuchkov, Accounting Officer

2 copies - Project Applicant, DFG/ASB

Governor's Office of Planning & Research
FEB 26 2019
STATE CLEARINGHOUSE

**STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2018-0059**

**ADOPTION OF AMENDMENTS TO THE WATER QUALITY CONTROL PLAN FOR THE
SAN FRANCISCO BAY/SACRAMENTO-SAN JOAQUIN DELTA ESTUARY AND FINAL
SUBSTITUTE ENVIRONMENTAL DOCUMENT**

WHEREAS:

1. The State Water Resources Control Board (State Water Board) and the nine regional water quality control boards administer the Porter-Cologne Water Quality Control Act (Wat. Code, § 13000 et seq.) (Porter-Cologne Act) to achieve an effective water quality control program for the state and are 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 is authorized to adopt a water quality control plan in accordance with the provisions of Water Code sections 13240 through 13244, insofar as they are applicable. (Wat. Code, § 13170.)
3. 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, 1995, and in 2006. The Bay-Delta Plan establishes water quality objectives for the protection of beneficial uses in the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta) and a program of implementation to achieve the objectives. Diversions of water within and upstream of the Bay-Delta are a driver of water quality in the Bay-Delta. As a result, much of the implementation for the Bay-Delta Plan relies upon the combined water rights and water quality authorities of the State Water Board.
4. The 2006 Bay-Delta Plan identified emerging issues requiring additional action by the State Water Board, including San Joaquin River flows and Delta salinity. In the 2008 Strategic Workplan for Activities in the San Francisco Bay/ Sacramento-San Joaquin Delta Estuary, the State Water Board committed to undertake a review of the southern Delta salinity and San Joaquin River flow objectives and their implementation. The State Water Board further reiterated its commitment in the 2009 Staff Report on the Periodic Review of the San Francisco Bay/ Sacramento-San Joaquin Delta Estuary.
5. Native fish species that migrate through and inhabit the Delta have experienced dramatic population declines in recent years, bringing some species to the brink of extinction. Approximately 70,000 fall-run Chinook salmon adults returned to the San Joaquin Basin in 1985. The number of returning adults dropped to approximately 40,000 in 2000 and dropped again to 8,000 returning adults in 2013. Returning fall-run adults were estimated to be approximately 10,000 in 2017. This is an 85 percent net loss in returning adult fall-run Chinook salmon from 1985 to 2017. While multiple factors are responsible for the decline, the magnitude of diversions out of the Sacramento, San Joaquin, and other rivers feeding into the Bay-Delta is a major factor in the ecosystem decline. The State Water Board has authority over both water quality and water diversion and use.

6. The State Water Board adopted the southern Delta salinity objectives for agriculture in the 1978 Delta Plan. The objectives are based on conditions, crops, and irrigation practices in the southern Delta at the time the objectives were adopted. Recent analysis of southern Delta water quality and crop salinity requirements shows that the existing salinity conditions in the southern Delta are suitable for all crops and that the existing April through August salinity objective is lower than what is needed to reasonably protect agricultural beneficial uses.
7. The State Water Board commenced the process to amend the Bay-Delta Plan to reasonably protect fish and wildlife beneficial uses in the Lower San Joaquin River (LSJR) and its three eastside salmon-bearing tributaries, the Stanislaus, Tuolumne, and Merced Rivers, and agricultural beneficial uses in the southern Delta in 2009 as follows:
 - a. On February 13, 2009, the State Water Board issued a Notice of Preparation (NOP) and of Scoping Meeting for Environmental Documentation for the Update and Implementation of the Bay Delta Plan: Southern Delta Salinity and San Joaquin River Flows. The public had an opportunity to submit written comments and to participate in the scoping meeting held on March 30, 2009. On April 1, 2011, the State Water Board issued a revised NOP and notice of additional scoping meeting, which provided for a written comment period and a scoping meeting on June 6, 2011. The notice included potential draft language for the southern Delta salinity objectives, San Joaquin River flow objectives, and the program of implementation.
 - b. On April 22, 2009, the State Water Board staff held a public staff workshop to receive information and conduct detailed discussions regarding potential amendments or revisions to the southern Delta salinity and San Joaquin River flow objectives included in the Bay-Delta Plan and their implementation. It held other workshops including two workshops to receive and respond to public comments on a draft study report on the salt tolerance of crops in the southern Delta on August 13, 2009, and November 4, 2009, and a workshop on a draft technical report on the scientific basis for alternative San Joaquin River flow and southern Delta salinity objectives on January 6 and 7, 2011.
 - c. On December 31, 2012, the State Water Board released for public review and comment a draft substitute environmental document (2012 Draft SED) in support of proposed changes to the Bay-Delta Plan to adopt new and revised narrative and numeric flow water quality objectives for the LSJR, including the Stanislaus, Tuolumne, and Merced Rivers, a revised salinity water quality objective in the southern Delta, and a program of implementation to achieve the objectives (2012 Draft Amendments). On March 20 and 21, 2013, it held a public hearing on the 2012 Draft SED and 2012 Draft Amendments. The deadline for written comments was March 29, 2013, and the State Water Board received numerous comments.
 - d. On September 15, 2016, the State Water Board recirculated for public review and comment a revised draft substitute environmental document (Recirculated SED) in support of revisions to the 2012 Draft Amendments (2016 Draft Amendments). The Recirculated SED and 2016 Draft Amendments made substantial changes to the 2012 Draft SED and 2012 Draft Amendments in consideration of the large number of public comments received concerning those drafts, in light of additional information,

including information learned from the recent drought, and in response to the state's adoption in 2014 of a state policy for sustainable groundwater management (Wat. Code, § 113) and passage of the Sustainable Groundwater Management Act (Wat. Code, §§ 10720 et seq.), which provide a roadmap and directive for sustainable local groundwater management.

- e. The State Water Board held a five-day public hearing, commencing in November 2016 and concluding in January 2017, on the Recirculated SED and 2016 Draft Amendments. State Water Board staff also held numerous workshops and outreach meetings. The State Water Board provided a six-month written comment period that closed on March 17, 2017. The State Water Board received thousands of comments.
 - f. On July 6, 2018, the State Water Board released the proposed final SED (Final SED), which includes proposed final amendments to the Bay-Delta Plan (Plan Amendments) and written responses to comments on the Recirculated SED and the 2016 Draft Amendments. It also provided notice of a public meeting to consider the adoption of the proposed Plan Amendments and Final SED, and solicited comments on the changes to the regulatory language in the proposed Plan Amendments. The Final SED, including the Plan Amendments, includes modifications that clarify, amplify, or refine information, primarily in response to comments. These modifications do not result in new significant environmental effects or a substantial increase in the severity of effects disclosed in the Recirculated SED.
 - g. At a public meeting on August 21-22, 2018, the State Water Board heard oral comments and considered the adoption of the proposed Plan Amendments and Final SED. The State Water Board continued final action to December 12, 2018. Change Sheets 1 to 3 were released to the public on August 20, 2018, and October 25, 2018, and include modifications to the Plan Amendments and the SED. Neither those changes nor the changes made by the State Water Board to this Resolution at the December 12, 2018, meeting result in new significant environmental effects or a substantial increase in the severity of effects disclosed in the Final SED.
8. The Plan Amendments' new and revised flow water quality objectives for the LSJR and a revised southern Delta salinity water quality objective are based on sound scientific rationale and contain sufficient parameters to protect fish and wildlife and agricultural beneficial uses.
 9. Pursuant to Health and Safety Code section 57004, the scientific basis of the Plan Amendments underwent external scientific peer review through an interagency agreement with the University of California. Peer review was solicited on August 12, 2011, and completed on November 21, 2011.
 10. In establishing and revising the flow water quality objectives for the LSJR and the salinity water quality objective for the southern Delta, the State Water Board has duly considered the factors set forth in Water Code section 13241. These factors include: (1) past, present, and probable future beneficial uses of water; (2) environmental characteristics of the hydrographic unit under consideration, including the quality of water available thereto; (3) water quality conditions that could reasonably be achieved through the coordinated control of all factors that affect water quality in the area;

(4) economic considerations; (5) the need for developing housing within the region; and (6) the need to develop and use recycled water. The information supporting the State Water Board's consideration of these factors is in the Final SED, including the comments and responses to comments contained therein.

11. The Plan Amendments include a program of implementation for achieving the LSJR flow water quality objectives and the salinity water quality objective for the southern Delta in accordance with Water Code section 13242. To help ensure transparency and accountability in evaluating compliance with the water quality objectives, to inform ongoing implementation, and to foster and accommodate the development of scientific information, the Plan Amendments require monitoring and reporting on annual and longer-term bases.
12. The water quality control planning program is a regulatory program that has been certified by the State's Secretary for Resources as exempt from the requirements of the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) to prepare an environmental impact report (EIR) or negative declaration. (Cal. Code of Regs., tit. 14, § 15251, subd. (g); Cal. Code of Regs., tit. 23, § 3775.) The Final SED is in lieu of an EIR and has been completed in compliance with the requirements applicable to the State Water Board's certified exempt regulatory programs. The State Water Board has evaluated the potential environmental effects of reasonably foreseeable methods of compliance with the Plan Amendments in accordance with Public Resources Code section 21159 and California Code of Regulations, title 14, section 15187.
13. The Final SED comprises Volumes I to III (which includes responses to comments), as amended by change sheets; Comment Summary and Responses released in August 2018 to respond to comments solicited on July 6, 2018, on the changes to the language in the proposed Plan Amendments; Comment Responses released in October 2018 to respond to oral comments at the August 21-22, 2018, public meeting; and this resolution and its attachments, as amended by Change Sheet 1. (Cal. Code Regs., tit. 23, § 3779.5, subd. (b).) The Final SED includes sufficient environmental and technical analysis to satisfy the requirements of CEQA and other applicable laws.
14. In accordance with California Code of Regulations, title 23, section 3779.5, subdivision (c), and California Code of Regulations, title 14, section 15091, subdivision (a), Attachment 1 sets forth the CEQA Findings and Statement of Overriding Considerations Prepared for Amendments to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary and is incorporated herein. It includes findings for each significant environmental effect that may occur from implementation of the Plan Amendments and describes measures to reduce significant effects. The State Water Board recognizes that despite mitigation measures described in the Final SED and in Attachment 1, implementation of the Plan Amendments would have significant and unavoidable effects on the environment. As explained in the statement of overriding considerations in Attachment 1, the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of the Plan Amendments outweigh the unavoidable significant environmental effects of the Plan Amendments. Attachment 2 is the Mitigation and Monitoring Program that sets forth and ensures implementation of mitigation measures within the State Water Board's authority and is incorporated herein.

15. It is the policy of the State of California that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. (Wat. Code, § 106.3 and State Water Board Resolution No. 2016-0010.) The State Water Board has considered this policy and the Plan Amendments include a statement that the State Water Board "will take actions as necessary to ensure that the implementation of the flow objectives does not impact supplies of water for minimum health and safety needs, particularly during drought periods." The State Water Board will continue to consider this policy through the technical and financial assistance programs it administers for at-risk communities, including disadvantaged communities within the area covered by the Plan Amendments.
16. Adoption of the Plan Amendments is consistent with the state Antidegradation Policy (State Water Board Resolution No. 68-16) and the federal Antidegradation Policy (40 C.F.R. § 131.12).
17. The Bay-Delta Plan, as amended by the Plan Amendments, supplements the other water quality control plans that cover the Bay-Delta Estuary watershed. Together they include all necessary elements of water quality control plans in accordance with the Porter-Cologne Act and federal requirements. The Bay-Delta Plan supersedes any regional water quality control plans for the same waters to the extent of any conflict. (Wat. Code, § 13170.)
18. The Bay-Delta Plan will be reviewed every three years in compliance with Water Code section 13240 and federal Clean Water Act section 303(c) (33 U.S.C. § 1313(c)).
19. The State Water Board has complied with all notice and hearing requirements and carefully considered all timely oral and written comments, responses to comments, the Final SED, and all of the evidence in the administrative record. The Final SED reflects the independent judgment and analysis of the State Water Board.
20. The Plan Amendments will be submitted to the Office of Administrative Law (OAL) and become effective upon OAL approval. 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.). 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.
21. The State Water Board is aware of ongoing negotiations between interested stakeholders and various other state agencies to achieve voluntary agreements to implement the Plan Amendments. In particular, robust voluntary agreements can help inform and expedite implementation of the LSJR flow objectives and provide durable solutions in the Bay-Delta watershed while also providing reasonable protections for fish and wildlife.
 - a. The State Water Board encourages stakeholders to continue to work together to reach voluntary agreements that incorporate a mix of flow and non-flow measures that meet or exceed the new and revised water quality objectives and protect fish and wildlife beneficial uses, and to present those voluntary agreements to the State Water Board for its review as soon as feasible.

- b. At the December 12, 2018 meeting, the California Department of Water Resources and California Department of Fish and Wildlife presented updated information on voluntary agreements and the contours of a potential Delta watershed-wide agreement. The Delta watershed-wide voluntary agreement is a discrete project encompassing a larger area than the LSJR flow objectives and within the LSJR project area only includes the Tuolumne River. Additional work is necessary to develop an enforceable agreement, join additional parties, analyze the agreement and how it interacts with the Bay-Delta Plan, and assess what, if any, changes may be necessary to the Bay-Delta Plan for the agreement to serve as an implementation mechanism to reasonably protect beneficial uses in the Tuolumne River and applicable portions of the Bay-Delta watershed, while providing a suitable regulatory backstop. Final incorporation of a voluntary agreement that requires changes to the Bay-Delta Plan, as contemplated by Resolved ¶ 7 below would require additional public process, including compliance with procedures under the Porter-Cologne Water Quality Control Act and environmental review under CEQA.
- c. Regardless of whether the current negotiations ultimately result in an agreement, the State Water Board will consider voluntary agreements as part of its proceedings to implement the Plan Amendments, consistent with its obligations under applicable law. In evaluating any proposal, the State Water Board will consider whether the agreement will help achieve the water quality objectives, help protect the beneficial use, and be enforceable through Board action.
- d. If a voluntary agreement is reached after the adoption of the Plan Amendments, the State Water Board will consider the voluntary agreement and determine what, if any, actions are necessary to consider the agreement as a means of implementing the Bay-Delta Plan objectives, including a public process.

THEREFORE BE IT RESOLVED THAT:

1. The State Water Board hereby approves and adopts the Final SED, including the Findings and Statement of Overriding Considerations (Attachment 1), and the Mitigation and Monitoring Program (Attachment 2) and the mitigation measures set forth therein.
2. The State Water Board hereby adopts the Plan Amendments, which are set forth in Appendix K to the Final SED.
3. The State Water Board authorizes the Executive Director or designee to submit the Plan Amendments and the administrative record to OAL for review and approval.
4. The State Water Board authorizes the Executive Director or designee to make minor, non-substantive modifications to the language of the Plan Amendments or the supporting documentation, if the State Water Board, State Water Board staff, or OAL determines that such changes are needed for clarity or consistency, and to inform the State Water Board of any such changes.
5. The State Water Board directs staff, upon approval by OAL, to file a Notice of Decision with the Secretary for Natural Resources and transmit payment of the applicable fee as may be required to the Department of Fish and Wildlife pursuant to Fish and Game Code section 711.4.

6. The State Water Board directs the Executive Director or designee to submit the Plan Amendments to the U.S. EPA for approval in accordance with requirements of the federal Clean Water Act (33 U.S.C. § 1251 et seq.).
7. The State Water Board directs staff to provide appropriate technical and regulatory information to assist the California Natural Resources Agency in completing a Delta watershed-wide agreement, including potential flow and non-flow measures for the Tuolumne River, and associated analyses no later than March 1, 2019. State Water Board staff shall incorporate the Delta watershed-wide agreement, including potential amendments to implement agreements related to the Tuolumne River, as an alternative for a future, comprehensive Bay-Delta Plan update that addresses the reasonable protection of beneficial uses across the Delta watershed, with the goal that comprehensive amendments to the Bay-Delta Plan across the Delta watershed may be presented to the State Water Board for consideration as early as possible after December 1, 2019.
8. The Plan Amendments adopted by this resolution are not self-implementing. Subsequent regulatory actions are required to implement the objectives and make them enforceable. The December 1, 2019 date of Resolved ¶ 7 provides a path for acceptance and approval of a voluntary agreement before regulatory actions to amend the water rights of water users on the Tuolumne River would occur and with sufficient time to complete any additional planning actions well in advance of the date that the LSJR flow objectives will be fully implemented.

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 12, 2018.

AYE: Chair Felicia Marcus
Board Member Tam M. Doduc
Board Member E. Joaquin Esquivel
Board Member Sean Maguire

NAY: Board Member Dorene D'Adamo

ABSENT: None

ABSTAIN: None



Jeanine Townsend
Clerk to the Board

**State of California
Office of Administrative Law**

In re:
State Water Resources Control Board

Regulatory Action:

Title 23, California Code of Regulations

Adopt section: 3002.1

Amend section: 3002

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

Government Code Section 11353

OAL Matter Number: 2019-0110-01

OAL Matter Type: Regular (S)

This action amends the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary, including new and revised flow objectives for the Lower San Joaquin River watershed and a revised salinity objective for the southern Delta.

OAL approves this regulatory action pursuant to section 11353 of the Government Code.

Date: February 25, 2019



**Eric Partington
Senior Attorney**

**For: Debra M. Cornez
Director**

**Original: Eileen Sobeck, Executive
Director**

Copy: Erin Foresman

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2019-0110-015	EMERGENCY NUMBER
------------------	---------------------------------	--	------------------

For use by Office of Administrative Law (OAL) only	
NOTICE	REGULATIONS

ENDORSED - FILED
 In the office of the Secretary of State
 of the State of California

FEB 25 2019

1:35P

2019 JAN 10 A 11:17
 OFFICE OF ADMINISTRATIVE LAW

AGENCY WITH RULEMAKING AUTHORITY State Water Resources Control Board	AGENCY FILE NUMBER (if any) Resolution 2018-0059
---	---

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER	PUBLICATION DATE	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Lower San Joaquin River Flow and Southern Delta Salinity	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 07-0515-02 S
--	--

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT Division 3, Chapter 23, Section 3002.1
	AMEND Division 3, Chapter 23, Section 3002
	REPEAL
TITLE(S) 23	

3. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input checked="" type="checkbox"/> Other (Specify) <u>Gov. Code § 11353</u>	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> \$100 Changes Without Regulatory Effect	<input checked="" type="checkbox"/> Effective other (Specify) <u>OAL approval (Gov. Code § 11353(b)(5))</u>
---	--	--	---

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input checked="" type="checkbox"/> Other (Specify) <u>U.S. Environmental Protection Agency review and approval subsequent to OAL approval</u>		

7. CONTACT PERSON Erin Foresman	TELEPHONE NUMBER (916) 341-5359	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) erin.foresman@waterboards.ca.gov
------------------------------------	------------------------------------	-----------------------	---

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 12/20/2018
TYPED NAME AND TITLE OF AGENCY HEAD OR DESIGNEE Eric Oppenheimer, Chief Deputy Director	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

FEB 25 2019

Office of Administrative Law

Concise Summary of Regulatory Provisions

TITLE 23. Waters

Division 3. State Water Resources Control Board

Chapter 23. Water Quality Control Plans

Section 3002 is amended as follows:

Section 3002 - Clear and Concise Summary of Revised Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary.

On December 13, 2006 the State Water Resources Control Board (State Water Board) adopted Resolution No. 2006-0098, entitled Adoption of the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (2006 Bay-Delta Plan). The 2006 Bay-Delta Plan supersedes the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary adopted May 1995 (1995 Plan), the Water Quality Control Plan for Salinity for the San Francisco Bay/Sacramento-San Joaquin Delta adopted May 1991 (1991 Plan) and the Water Quality Control Plan for the Sacramento-San Joaquin Delta and Suisun Marsh adopted August 1978 (1978 Plan).

(a) The introductory chapter was revised, summarized, and reorganized. A new section D was added describing emerging water quality issues. The State Water Board is committed to further examining the following issues:

- (1) Pelagic Organism Decline.
- (2) Climate Change.
- (3) Delta and Central Valley Salinity.
- (4) San Joaquin River Flows.

(b) Beneficial uses established in the 1995 Plan remain unchanged in the 2006 Bay-Delta Plan.

(c) Water Quality Objectives for Municipal and Industrial uses, Agricultural uses and Fish and Wildlife beneficial uses remain unchanged. No new water quality objectives were adopted in the 2006 Bay-Delta Plan. Water quality objective footnotes containing implementation dates have been moved to the program of Implementation or, if obsolete have been deleted. The fish and wildlife water quality objective footnotes in Table 3 have been edited for clarification and to use the same terminology as the corresponding footnotes in Water Right Decision 1641 (D-1641), which implements the flow-dependent fish and wildlife objectives.

(d) Implementation Measures.

(1) Measures within the State Water Board Authority: This section was expanded to include specific implementation measures, many of which are implemented through permit and license terms adopted in D-1641. ~~This section adds a staged implementation of the April 15 through May 15 San Joaquin River pulse flow objectives to allow for scientific experimentation.~~

(2) Measures requiring a Combination of State Water Board Authorities and Actions by Other Agencies: This section was revised to update the State Water Board's recommendations to other agencies on their programs to achieve water quality objectives.

(3) Recommendations to Other Agencies: This section has been updated to address new developments since the release of the 1995 Plan.

(4) Monitoring and Special Studies Program: This section was updated to make changes to the Water Quality Compliance and Baseline Monitoring Program. The addition and deletion of stations as well as any other changes were made as proposed by the California Department of Water Resources.

Section 3002.1 is adopted as follows:

Section 3002.1 – Clear and Concise Summary of Amendments to Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary.

On December 11, 2018, the State Water Resources Control Board (State Water Board) adopted Resolution No. 2018-0059 amending the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta Plan) as follows:

(a) Introduction. Update the introductory chapter, including information to reflect the new and revised flow water quality objectives for the Lower San Joaquin River and its tributaries and the revised salinity water quality objectives for the southern Delta, which were identified as two emerging issues in the 2006 revisions to the Bay-Delta Plan.

(b) Beneficial Uses. Clarify that the beneficial uses designated in the "Water Quality Control Plan for the Sacramento River Basin and San Joaquin River Basin" for the Stanislaus River, Tuolumne River, Merced River, and the San Joaquin River from the mouth of the Merced River to Vernalis remain in effect and that the Bay-Delta Plan includes measures to protect those uses.

(c) Water quality objectives. Adopt new and revised narrative and numeric flow water quality objectives for the Lower San Joaquin River watershed, including the Stanislaus, Tuolumne, and Merced Rivers, (the LSJR flow objectives or flow objectives) to reasonably protect fish and wildlife beneficial uses in the Bay-Delta Estuary and its tributaries, the Stanislaus, Tuolumne, and Merced Rivers. Adopt a revised salinity water quality objective for the southern Delta to reasonably protect agricultural beneficial uses in the southern Delta (the southern Delta salinity objective).

(d) Program of Implementation.

(1) Implementation measures within State Water Board Authority. Amend the program of implementation for the Lower San Joaquin River to implement the LSJR flow objectives through water right or water quality actions. It describes how the State Water Board will exercise its authorities to: (i) ensure the required flows are used for their intended purpose; (ii) ensure that actions taken in response to implementation of the flow objectives do not result in unreasonable redirected groundwater impacts; (iii) require the development and implementation of minimum reservoir carryover storage targets or other requirements to help ensure that providing flows to meet the flow objectives will not have significant adverse temperature or other impacts on fish and wildlife or, if feasible, on other beneficial uses; and (iv) ensure that implementation of the flow objectives does not impact supplies of water for minimum health and safety needs. The program of implementation allows adaptive adjustments to the required flows where criteria are met

and specifies the information, procedures, plans, and comprehensive monitoring and evaluation needed to inform implementation, compliance, and effectiveness of the program of implementation in meeting the flow objectives. The program of implementation allows the State Water Board to authorize a temporary change in the implementation of the flow objectives in defined states of emergencies. It recognizes that voluntary agreements may serve as an implementation mechanism for the flow objectives.

(2) **Measures Requiring a Combination of State Water Board Authorities and Actions by Other Agencies.** Amend the program of implementation to implement the southern Delta salinity objective to describe the actions necessary to achieve the objective and the monitoring, special studies, and reporting requirements that the State Water Board will require to evaluate compliance with the objective and to obtain additional information to inform implementation of the objective and understanding of salinity conditions in the southern Delta. Update the information on the efforts, projects, and actions undertaken by other agencies that will or may assist in implementing the southern Delta salinity objective.

(3) **Recommendations to Other Agencies.** Amend the program of implementation to recommend that other agencies and parties implement non-flow actions in the San Joaquin River watershed that are complementary to the LSJR flow objectives.



GAVIN NEWSOM
GOVERNOR

JARED BLUMENFELD
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

2019029138

TO: Wade Crowfoot
California Secretary for Natural Resources
1416 Ninth Street
Room 1311
Sacramento, CA 95814

Governor's Office of Planning & Research

FEB 26 2019

STATE CLEARINGHOUSE

FROM: Erik Ekdahl 
Deputy Director
DIVISION OF WATER RIGHTS
STATE WATER RESOURCES CONTROL BOARD

DATE: February 26, 2019

SUBJECT: TRANSMITTAL OF NOTICE OF DECISION FOR AMENDMENTS TO THE
WATER QUALITY CONTROL PLAN FOR THE SAN FRANCISCO
BAY/SACRAMENTO-SAN JOAQUIN DELTA ESTUARY

On December 12, 2018, the State Water Resources Control Board (State Water Board) adopted Resolution No. 2018-0059, amending the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta Plan). The amendment establishes new and revised flow water quality objectives for the Lower San Joaquin River and its tributaries, the Stanislaus, Tuolumne, and Merced Rivers; a revised salinity water quality objective for the southern Delta; and a program of implementation to achieve these objectives. The Office of Administrative Law (OAL) approved the amendment on February 25, 2019.

The State Water Board's planning process is a certified regulatory program under the California Environmental Quality Act, as provided in section 21080.5 of the Public Resources Code. After the State Water Board's adoption of a project subject to the State Water Board's certified regulatory program, OAL's approval of the project, and the State Water Board's payment of a filing fee to the Department of Fish and Wildlife, the State Water Board submits a Notice of Decision to the Secretary for the Natural Resources Agency. (Cal. Code Regs., tit. 23, § 3781, subd. (a); Fish & G., § 711.4, subd. (d)(4).)

Attached are copies of the Notice of Decision, Department of Fish and Wildlife Environmental Filing Fee Cash Receipt, State Water Board Resolution No. 2018-0059, and OAL's Notice of Approval. Please date stamp, scan and electronically return the receipt of the Notice of Decision for the State Water Board's records.

February 26, 2019

If you have any questions, please contact Ms. Erin Foresman, Environmental Program Manager, at 916-341-5359 or by email erin.foresman@waterboards.ca.gov. Written correspondence should be directed to: State Water Resources Control Board; Division of Water Rights; Attn: Erin Foresman, P.O. Box 2000 Sacramento, CA 95812-2000.

Attachments: 1) Notice of Decision
 2) Department of Fish and Wildlife Environmental Filing Fee Cash Receipt
 3) State Water Board Resolution No. 2018-0059
 4) OAL's Notice of Approval

cc (w/ attachments): California Natural Resources Agency
 Office of Assistant General Counsel
 1416 Ninth Street, Suite 1311
 Sacramento, CA 95814

secretary@resources.ca.gov

Deanna.Ou@resources.ca.gov

ec (w/ attachments): **State Clearing House**
 state.clearinghouse@opr.ca.gov

State Water Resources Control Board, DWR
erin.foresman@waterboards.ca.gov

cc (w/o attachments) **State Water Resources Control Board, OCC**
 erin.mahaney@waterboards.ca.gov

tina.leahy@Waterboards.ca.gov

david.coupe@waterboards.ca.gov