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MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

TO: File

FROM: 
Eileen Sobeck
Executive Director
EXECUTIVE OFFICE

DATE: December 19, 2018

SUBJECT: RESOLUTION NO. 2018-0059, ADOPTION OF AMENDMENTS TO THE WATER QUALITY CONTROL PLAN FOR THE SAN FRANCISCO BAY/SACRAMENTO-SAN JOAQUIN DELTA ESTUARY (BAY-DELTA PLAN) AND FINAL SUBSTITUTE ENVIRONMENTAL DOCUMENT: MINOR, NON-SUBSTANTIVE MODIFICATIONS

On December 12, 2018, the State Water Resources Control Board (State Water Board) adopted amendments to the Bay-Delta Plan. The Division of Water Rights staff has been preparing the administrative record and final documents for transmittal to the Office of Administrative Law as required by Government Code section 11353. During staff's compilation of the final documents, staff has identified two minor clerical errors that are appropriately addressed through a non-substantive modification.

The State Water Board approved the Bay-Delta Plan amendment via Resolution No. 2018-0059. Resolved paragraph 4 of the adoption resolution authorizes the Executive Director 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...." Consistent with resolved paragraph 4, the Bay-Delta Plan amendments shall be modified as follows:

- Appendix K (Plan Amendment Language), p. 43 of the version considered by the State Water Board on December 12, 2018 – The incorrect preposition "of" was used instead of "with" in the second sentence added to the first full paragraph. Using **bold-double underline** to show the addition and **~~bold-strikethrough~~** to show the deletion, the modified sentence is:

Prior to State Water Board approval of the Monitoring and Reporting Plan, compliance ~~of~~ **with** the salinity objective for the interior southern Delta will be assessed at stations C-6, C-8, and P-12, which USBR and DWR shall be required to continue to operate as a condition of their water rights.

FELICIA MARCUS, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

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This entire sentence will be underlined in the corrected Appendix K, as it is new plan amendment language. The swapping of the prepositions depicted above has no substantive effect, is minor, and provides clarity.

- Appendix K (Plan Amendment Language), p. 46 of the version considered by the State Water Board on December 12, 2018 – The redlining of the document to show deletions of existing Bay-Delta Plan text inadvertently omitted “domestic, and” in one location and failed to underline the addition of “other” later in that same sentence. Using ~~bold-strikethrough~~ to show the inadvertently omitted text deleted and bold-double-underline to show the text that was not marked as an addition, the modified sentence is:

The Central Valley Regional Water Board shall regulate ~~impose discharge controls on~~ in-Delta discharges of salts by agricultural, ~~domestic, and~~ municipal POTW, and other dischargers consistent with applicable state and federal law, including, but not limited to, establishing water-quality based effluent limitations and compliance, monitoring and reporting requirements as part of the reissuance of National Pollutant Discharge Elimination System (NPDES) permits under the Clean Water Act and the regulations thereunder.

Members of the public would not have been misled by the formatting omissions, because the final text and sentence of the plan amendment was publicly noticed. Moreover, the two formatting errors effectively cancel each other out. The deleted “domestic” dischargers are subsumed within the “other” discharges language, so no member of the public would be confused about the impact of the adopted language. The formatting changes have no substantive effect, are minor, and provide consistency and clarity.

Staff are directed to make the conforming changes to the language prior to transmittal to the Office of Administrative Law. Consistent with resolved paragraph 4, Board members have been provided a copy of this memorandum.

cc: Board Members, Exec (all via email only)
Erik Ekdahl, DWR
Erin Forsman, DWR
Erin Mahaney, OCC
Tina Leahy, OCC
Yuri Won, OCC