

MOTION TO AMEND THE RESOLUTION
ADOPTING THE AMENDMENTS TO THE BAY-DELTA PLAN AND FINAL SED

REVISE WHEREAS ¶ 21 AS FOLLOWS:

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 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 ¶ 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.

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INSERT NEW RESOLVED ¶¶ 7 AND 8 AS FOLLOWS:

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.