

**Memorandum**

Date: **JAN 06 2006**

To: Tam Doduc, Chairwoman  
State Water Resources Control Board  
1001 I Street, 14<sup>th</sup> Floor  
Sacramento, California 95814

Item 5  
1/13/06 Bd Mtg.  
Email: Bd, CC, ML,  
TH, BJ, SP

From: Department of Water Resources

Subject: Request for withdrawal of item <sup>5</sup>4 from January 13, 2006 State Water Resources Control Board meeting agenda.

*Via Hand Delivery*

On December 30, 2005, the State Water Resources Control Board (SWRCB) issued a proposed Draft Order for a Cease and Desist Order against the Department of Water Resources (DWR) and the Bureau of Reclamation (Reclamation). The SWRCB requires that any written comments on the proposed Draft Order be received by SWRCB by January 10, 2006 (5:00 pm). The SWRCB has indicated that it will consider comments and whether to adopt the proposed Draft Order at its regularly scheduled meeting on January 13.

The proposed Draft Cease and Desist Order by the SWRCB against DWR is an unprecedented action that DWR believes is unnecessary, unwarranted and inconsistent with our water rights and potentially having dramatic impacts on State policy, water project operations, and the Governor's vision for future water management. The SWRCB held six days of hearings to discuss the multiple issues considered in the Draft Order and it is unreasonable to expect DWR and Reclamation to provide comments on both the technical facts and legal arguments with only six working days between the time of receiving notice and providing comments on the Draft Order. (In practice, the agencies had only five working days because the notice came out on the Friday of the New Year Holiday when many employees were on vacation.)

Because of the complex nature of the issues in the Delta, the short time allowed for review and comment of the Draft Order, and the potential for conflict and litigation among State and federal water agencies, DWR requests that the SWRCB withdraw Item 4 from the agenda for the January 13, 2006 meeting and provide an additional four weeks before hearing the issue to allow sufficient time for all affected parties to provide meaningful input on the Draft Order. If you have any questions regarding the above, please contact Deputy Director Jerry Johns at (916) 653-8045, or you may contact me.

**Original Signed By**

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cc: (See attached list.)

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