

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING – OFFICE OF CHIEF COUNSEL
JULY 19, 2006**

ITEM 4

SUBJECT

CONSIDERATION OF ADOPTION OF THE REVISED APPENDIX TO THE CONFLICT OF INTEREST CODE. (THE BOARD WILL BE ASKED WHETHER TO ADOPT A REVISED APPENDIX TO THE STATE WATER BOARD CONFLICT OF INTEREST CODE.)

DISCUSSION

Government Code section 87306 requires all government agencies to review their conflict of interest code every two years and to update the code, if necessary.

The State Water Board's Conflict of Interest Code, which also covers the nine Regional Water Boards, was last amended in 2005. The Office of Chief Counsel reviewed the Code in early 2006 and determined that the Appendix to the Code needed to be revised because new positions were created and other positions had been designated or renamed. The Appendix contains the designated positions list and the list of the types of economic interests that must be disclosed by each designated position (disclosure categories).

A notice of proposed amendments to the Conflict of Interest Code Appendix was published and copies of the draft amendments were sent to affected staff. Copies of the proposed amendments were sent to all State Water Board Division Chiefs and Regional Water Board Executive Officers and they were asked to comment on the proposed changes.

The sixty-day public comment period ended May 24, 2006. The Service Employees International Union asked to meet and confer regarding the planned amendments but did not initiate any further contact and did not respond to a message offering to meet. One other comment was received. A change was made to the draft document in response to that comment, and questions posed were answered in the responses to comments.

POLICY ISSUE

Should the Board approve the amendments to the appendix to the Conflict of Interest Code?

FISCAL IMPACT

There will be no fiscal impact.

REGIONAL BOARD IMPACT

None.

STAFF RECOMMENDATION

Adopt the proposed resolution approving the amendments and authorizing the Executive Director to transmit them to the Fair Political Practices Commission.

CONFLICT OF INTEREST CODE
FOR THE
STATE WATER RESOURCES CONTROL BOARD

The Political Reform Act (Gov. Code, § 81000, et seq.) requires state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation (Cal. Code Regs., tit. 2, § 18730.) which can be incorporated by reference in an agency's code. After public notice and hearing it may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of Title 2, California Code of Regulations, section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendix designating officials and employees and establishing disclosure categories, shall constitute the Conflict of Interest Code of the State Water Resources Control Board (State Water Board).

Designated employees shall file statements of economic interests with the State Water Board who will make the statements available for public inspection and reproduction. (Gov. Code, § 81008.) Upon receipt of the statements of the State Water Board Executive Director and the State Water Board Members, the State Water Board shall make and retain a copy and forward the original of these statements to the Fair Political Practices Commission. Statements for all other designated employees shall be retained by the State Water Board.

DRAFT

June 26, 2006

CONFLICT OF INTEREST CODE FOR THE STATE WATER RESOURCES CONTROL BOARD

APPENDIX

| DESIGNATED POSITIONS | DISCLOSURE CATEGORIES |
|--|-----------------------|
| I. STATE WATER RESOURCES CONTROL BOARD | |
| A. Executive | |
| 1. State Water Board Members | 1 |
| 2. Executive Director | 1 |
| 3. Deputy Director(s) | 1 |
| <u>4.</u> <u>Senior Policy Advisor for Border Affairs</u> | <u>1</u> |
| 45. Chief, Office of Statewide Initiatives | 1 |
| 56. Chief, Statewide Assistance Unit | 1 |
| 67. Economists, Office of Statewide Initiatives | 1 |
| 78. Chief, Policy Development | 1 |
| 89. Senior Level Employee, Compliance Assurance & Enforcement Unit | 1 |
| 910 Compliance and Enforcement Specialist | 1 |
| . | |
| 110 Clean Beaches Coordinator | 1 |
| . | |
| 124 Clerk to the Board | 2 |
| . | |
| 132 Supervisors (including Chief and Assistant Chief), Office of Information Technology | 8 |
| . | |
| <u>14.</u> <u>Senior Staff, Office of Information Technology</u> | <u>8</u> |
| 153 Administrative Officer, Office of Information Technology | 2 |
| . | |
| B. Division of Water Quality | |
| 1. Division Chief | 1 |
| 2. Assistant Division Chief(s) | 1 |
| 3. All Section Supervisors | 1 |
| 4. Manager, Administrative Support Services | 2 |
| C. Division of Administrative Services | |
| 1. Division Chief | 2 |

| DESIGNATED POSITIONS | DISCLOSURE CATEGORIES |
|---|-----------------------|
| 2. Assistant Division Chief | 2 |
| 3. Administrative Officer Liaison | 2 |
| 4. Chief, Business Management and Support Branch | 2 |
| 5. Professional Staff, Contracts, Business Management and Special Projects Sections | 2 |
| 6. Professional Staff, Training Section | 2 |
| 7.6. Professional Staff, Telecommunications Section Supervisor, Telecommunications Section | 22 |
| 8.7. Filing Officer (defined in Government Code section 82027) | 9 |
| D. Division of Water Rights | |
| 1. Division Chief | 1 |
| 2. Assistant Division Chief(s) | 1 |
| 3. Chief, Permitting Section | 3,4 |
| 4. Chief, Enforcement License Section | 3 |
| 5. Chief, Hearings and Special Project Section | 1 |
| 6. Supervisor, Administrative Support Unit | 2 |
| E. Division of Financial Assistance | |
| 1. Division Chief | 1 |
| 2. Assistant Division Chief(s) | 1 |
| 3. All Section Chiefs, except Management Support | 1 |
| 4. All Unit Managers Supervisors | 1 |
| 5. Clean Water State Revolving Fund (CWSRF) Program Coordinator | 4 |
| 6. Watershed Management Initiative (WMI) Coordinator | 4 |
| 5. Watershed Management Initiative and Special Programs Coordinators | 1 |
| 6. All Unit Supervisors | 1 |
| 7. Supervisor, Cleanup Fund Claims Review and Settlements | 4 |
| 8. Supervisor, Payments and Closures | 4 |
| 9. Supervisor, Payments | 4 |
| 10. Chief, Management Support Section | 2 |

| DESIGNATED POSITIONS | DISCLOSURE CATEGORIES |
|--|-----------------------|
| F. Office of Chief Counsel | |
| 1. Chief Counsel | 1 |
| 2. All Attorneys | 1 |
| 3. Administrative Liaison | 2 |
| G. Office of Legislative and Public Affairs | |
| 1. Chief <u>Director, Legislative Affairs</u> | 1 |
| 2. Chief <u>Director</u> , Public Affairs Office | 1 |
| II. REGIONAL WATER QUALITY CONTROL BOARDS | |
| A. All Regional Board Members | 1 |
| B. Region 1 | |
| 1. Executive Officer | 1 |
| 2. Assistant Executive Officer(s) | 1 |
| 3. All Division Chiefs (except Administrative Division) | 1 |
| 4. All Unit Supervisors (except Administrative Unit) | 1 |
| 5. Supervisor <u>Chief</u> , Administrative Division <u>Unit</u> | 2 |
| C. Region 2 | |
| 1. Executive Officer | 1 |
| 2. Assistant Executive Officer(s) | 1 |
| 3. All Division Chiefs (except Management Services) | 1 |
| 4. All Section Leaders | 1 |
| 5. All Non-supervising Seniors | 1 |
| 6. All Staff Environmental Scientists | 1 |
| 7. Chief, Management Services Division | 2 |
| D. Region 3 | |
| 1. Executive Officer | 1 |
| 2. Assistant Executive Officer | 1 |
| 3. All Branch Chiefs | 1 |
| 4. All Unit Supervisors (except Administrative Services) | 1 |
| 5. Supervisor, Administrative Services Unit | 2 |
| E. Region 4 | |
| 1. Executive Officer | 1 |
| 2. <u>Chief Deputy Executive Officer</u> | <u>1</u> |
| 23. Assistant Executive Officer(s) | 1 |

| DESIGNATED POSITIONS | DISCLOSURE CATEGORIES |
|---|------------------------------|
| 34. All Section Chiefs (except Administrative Services) | 1 |
| 45. All Unit Supervisors | 1 |
| 56. Watershed Coordinator | 1 |
| 67. <u>Staff Environmental Scientist</u> Specialist , Contaminated Sediment | 1 |
| 78. Senior Environmental Planner | 1 |
| 89. Staff Environmental Scientist, Basin Planning & TMDL Programs | 1 |
| 91. Staff Environmental Scientist, Santa Monica Bay Restoration Commission | 1 |
| 0. Chief, Administrative Services | 2 |
| F. Region 5 | |
| 1. Executive Officer | 1 |
| 2. Assistant Executive Officer(s) | 1 |
| 3. All Section Supervisors (except Administrative Support Services/Technical Support) | 1 |
| 4. All Unit Seniors | 1 |
| 5. All Non-supervising Seniors | 1 |
| 6. Manager, Administrative Support Services/Technical and Program Support | 2 |
| 7. Supervisor(s), Administrative Support Services | 2 |
| G. Region 6 | |
| 1. Executive Officer | 1 |
| 2. Assistant Executive Officer | 1 |
| 3. All Division Chiefs | 1 |
| 4. All Unit Supervisors (except Administrative Support Services) | 1 |
| 5. Regional Monitoring Coordinator | 1 |
| 6. Watershed Management Initiative Coordinator | 1 |
| 7. Supervisor, Administrative Support Services | 2 |
| H. Region 7 | |
| 1. Executive Officer | 1 |
| 2. Assistant Executive Officer | 1 |
| 3. All Branch Chiefs | 1 |

| DESIGNATED POSITIONS | DISCLOSURE CATEGORIES |
|---|------------------------------|
| 4. All Section Supervisors (except Administrative and Support Services) | 1 |
| 5. Supervisor, Administrative Support Services | 2 |
| I. Region 8 | |
| 1. Executive Officer | 1 |
| 2. Assistant Executive Officer | 1 |
| 3. All Branch Chiefs | 1 |
| 4. All Section Supervisors (except Administrative Support Services) | 1 |
| 5. Supervisor, Administrative Services | 2 |
| J. Region 9 | |
| 1. Executive Officer | 1 |
| 2. Assistant Executive Officer | 1 |
| 3. All Branch Chiefs | 1 |
| 4. All Unit Supervisors (Except Business Support Services) | 1 |
| 5. Watershed Management Coordinator | 1 |
| 6. Senior Specialist, Marine Waters (Technical Assistance, San Diego Bay Cleanup Project) | 1 |
| 7. Staff Services Analyst, Administrative Services | 2 |
| 8. Supervisor, Business Support Services | 2 |
| K. Consultant* | 1 |

* Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation:

The Executive Director or Executive Officer may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Executive Director's or Executive Officer's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

DISCLOSURE CATEGORIES

Disclosure categories applied to members, officers and employees of Regional Water Quality Control Boards (Regional Water Board) refer to the jurisdiction of the applicable Regional Water Board as set forth in Water Code sections 13200 and 13260(a). Disclosure categories applied to members, officers and employees of the State Water Board refer to the jurisdiction of the State Water Board which is the entire State of California. Notwithstanding this limitation of disclosure categories, disclosure of a financial interest outside the jurisdiction of the applicable State or Regional Water Board (for example, the identity of the donor of certain gifts) may be required by statute or regulation.

Category 1

All investments and business positions in business entities, interest in real property and sources of income, including gifts, loans or travel payments.

Category 2

- (a) Any source of income, including gifts, loans or travel payments, and any investment and business positions in a business entity, which source of income or business entity is of a type which contracts with the State Water Board or a Regional Water Board to provide services, supplies, materials, machinery or equipment.
- (b) All interests in real property.

Category 3

- (a) Any source of income, including gifts, loans or travel payments, and any investment and business positions in a business entity which source of income or business entity holds a water right entitlement from the State Water Board as well as any source of income and any investment in a business entity which is an applicant for a water right entitlement from the State Water Board.
- (b) Any interest in real property for which the application for a water right entitlement has been made or for which a water right entitlement has been obtained.

Category 4

- (a) Any source of income, including gifts, loans or travel payments, and any investment and business positions in a business entity which source of income or business entity is a party to a court reference proceeding or is a claimant of a right in a statutory adjudication proceeding.
- (b) Any interest in real property with respect to which water rights are being adjudicated in a court reference proceeding or in a statutory adjudication proceeding.

Category 5

Any source of income, including gifts, loans or travel payments, and any investment and business positions in a business entity, which source of income or business entity engages in the design or construction of municipal wastewater treatment facilities or manufactures equipment for use in municipal wastewater treatment facilities.

Category 6

Any source of income, including gifts, loans or travel payments, and any investment and business positions in a business entity which source of income or business entity provides research, planning or environmental impact reporting services related to water supply or water quality.

Category 7

- (a) Any source of income, including gifts, loans or travel payments, and any investments and business positions in a business entity which source of income or business entity engages in the provision of training courses which may serve as experience equivalents in accordance with sections 2481(d) and (e) of the State Water Board's regulations (Cal. Code Regs., tit. 23), regarding operator training and certification.
- (b) Any source of income, including gifts, loans or travel payments, from any holder of, or applicant for, a wastewater treatment plant operator certificate pursuant to Chapter 14 of the State Water Board's regulations (Cal. Code Regs., tit. 23).

Category 8

Any source of income, including gifts, loans or travel payments, and any investment and business positions in a business entity, which source of income or business entity is of a type which contracts with the State Water Board or a Regional Water Board to provide computer related services, supplies, materials, machinery or equipment.

Category 9

Any source of income, including gifts, loans or travel payments, from any person who is a State Water Board or Regional Water Board Member, officer or employee who holds a position on the Designated Positions list of this Conflict of Interest Code.

NOTE: Authority Cited: Sections 87300, 87304, Government Code.
Reference: Sections 87300, et seq., Government Code.

* * * * *

D R A F T

June 26, 2006

Given the limited and particular application of these regulations, it has been determined that these regulations shall not be set forth in full in the California Code of Regulations, but that appropriate reference be made therein pursuant to Government Code section 11344.

DRAFT

June 26, 2006

These regulations are available to the public for review or purchase at cost at the following locations:

State Water Resources Control Board
Personnel Officer
1001 I Street, 18th Floor
P.O. Box 100 [95812-0100]
Sacramento, CA 95814

Fair Political Practices Commission
428 J Street, Suite 800
P.O. Box 807
Sacramento, CA 95804

Archives
Secretary of State
1020 O Street
Sacramento, CA 95814

EXPLANATION OF REASONS FOR
AMENDMENTS TO THE CONFLICT OF INTEREST CODE
OF THE STATE WATER RESOURCES CONTROL BOARD
2006

I. STATE WATER RESOURCES CONTROL BOARD

A. Executive Office

1. The position of Senior Policy Advisor for Border Affairs has been added. This is a new position reporting to the Executive Director. Duties include advising the Executive Director on policy issues regarding environmental protection in relation to Mexico and the Border Region; coordinating with other state agencies and addressing environmental infrastructure needs within the Border Region; and carrying out and coordinating water quality commitments from the U.S.-Mexico Border Governor's Conference, U.S.-Mexico Border 2012 Program and Ten State Alliance, and other programs. Because this position may have a material financial effect on a wide variety of financial interests, this position was placed in the broadest disclosure category.
2. The position Senior Staff, Office of Information Technology is a new designation. Employees in these positions are involved in information technology project management, evaluation and recommendation of vendor software and other products and services. Because this position may participate in decisions that affect business entities of a type that contract with the State Water Resources Control Board to provide computer services, this position has been designated for disclosure under Category 8.

C. Division of Administrative Services

1. The position Administrative Liaison has been renamed Administrative Officer. No disclosure responsibilities have been changed by this renaming.
2. The position Professional Staff, Training Section has been deleted because that position no longer exists.
3. The designation Professional Staff, Telecommunications Section has been ~~deleted because that section has been eliminated and its responsibilities transferred to the Office of Information Technology, renamed Supervisor, Telecommunications Section.~~ No disclosure responsibilities have been changed by this renaming.

D. Division of Water Rights

1. The position "Chief, License Section" has been renamed "Chief, Enforcement Section." No disclosure responsibilities have been changed by this renaming.
2. The position "Supervisor, Administrative Support Unit" has been renamed "Administrative Liaison." No disclosure responsibilities have been changed by this renaming.

E. Division of Financial Assistance

1. The position All Section Chiefs, except Management Support has been renamed All Section Chiefs. No disclosure responsibilities have been changed by this renaming.
2. The position All Unit Supervisors has been renamed All Unit Managers. No disclosure responsibilities have been changed by this renaming.
3. The position Clean Water State Revolving Fund (CWSRF) Program Coordinator has been renamed Watershed Management Initiative and Special Programs Coordinators. No disclosure responsibilities have been changed by this renaming.
4. The position Watershed Management Initiative Coordinator has been renamed Watershed Management Initiative and Special Programs Coordinators. No disclosure responsibilities have been changed by this renaming.
5. The position Supervisor, Cleanup Fund Claims Review has been renamed and is now covered by the designation All Unit Supervisors. No disclosure responsibilities have been changed by this renaming.
6. The position Supervisor, Payments and Settlements has been renamed and is now covered by the designation All Unit Supervisors. No disclosure responsibilities have been changed by this renaming.
7. The position Supervisor, Payments and Priority has been renamed and is now covered by the designation All Unit Supervisors. No disclosure responsibilities have been changed by this renaming.
8. The position Chief, Management Support Section has been deleted because that Section no longer exists and the position has been eliminated.

F. Office of Legislative and Public Affairs

1. The position Chief has been renamed Director, Legislative Affairs. No disclosure responsibilities have been changed by this renaming.
2. The position Chief, Public Affairs Office has been renamed Director, Public Affairs Office. No disclosure responsibilities have been changed by this renaming.

II. REGIONAL BOARDS

A. Region 1

1. The position All Division Chiefs has been renamed All Division Chiefs (except Administrative Division). No disclosure responsibilities have been changed by this renaming.
2. The All Unit Supervisors (except Administrative Unit) has been renamed All Unit Supervisors. No disclosure responsibilities have been changed by this renaming.
3. The position Supervisor, Administrative Unit has been renamed Chief, Administrative Division. No disclosure responsibilities have been changed by this renaming.

B. Region 3

1. The designation All Branch Chiefs has been deleted because that position has been eliminated.

C. Region 4

1. The designation Chief Deputy Executive Officer is a new position reporting directly to the Executive Officer. Duties include planning, organizing and giving administrative and technical direction to the work of regional water board staff associated with surface water programs, participating in policy formulation and providing policy guidance to staff. This position also coordinates program activities with the State Water Resources Control Board management, works with federal, state and local agencies on water quality control programs and participates in budget preparation and control, personnel management, and administrative services. Because this position may have a material financial effect on a wide variety of financial interests, this position was placed in the broadest disclosure category.

2006

PROPOSED REVISIONS TO CONFLICT OF INTEREST CODE STATE WATER RESOURCES CONTROL BOARD

SUMMARY OF COMMENTS AND RESPONSES TO COMMENTS

The following written comments were received during the 60-day comment period which ended on May 24, 2006.

1. Ricardo Martinez, Senior Policy Advisor for Border Affairs:

- a. *My title is Senior Policy Advisor for Border Affairs, the draft document does not reflect this.*

Response: The draft has been changed to reflect this title.

- b. *What is meant by "this position was placed under the broadest category"? Is this Category #1?*

Response: Yes, Category 1 is the broadest disclosure category.

- c. *While I am the Senior Advisor on Border Affairs, there are other employees within the State Water Board that also advise the Director and Board Members on Mexico issues of a sensitive nature. Do these employees fall within the same category under the Conflict of Interest Code?*

Response: Employees are listed according to the division to which they are assigned. The standard for designation is whether an employee makes or participates in the making of governmental decisions in which he or she knows or has reason to know that he or she has a financial interest. The category for each position designation depends upon the responsibilities and duties for that position. Disclosure categories are tailored to address different types of financial interests that may be affected by governmental decisions.

2. John L. Simmons, Service Employees International Union, Director of the Contract Department:

- a. *SEIU requests to meet and confer concerning the State's proposed Amendments to the State Water Resources Control Board Conflict of Interest Code and will be contacting State Water Board staff counsel to arrange negotiations.*

Response: SEIU did not subsequently contact State Water Board staff counsel to arrange a meeting, nor did SEIU communicate any further regarding the matter. Mr. Simmons did not respond to a voicemail message left on Tuesday, May 30, 2006, offering to meet with SEIU regarding the conflict of interest code.

STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2006-

ADOPTION OF REVISED APPENDIX TO CONFLICT OF INTEREST CODE

WHEREAS:

1. The Political Reform Act, Government Code Sections 81000 and following, requires all state agencies to adopt a Conflict of Interest Code, containing a list of designated positions within the Agency and, for each position, a list of the types of economic interests which must be reported.
2. Government Code Section 87306 requires every state agency to review its Conflict of Interest Code every two years and revise it if necessary.
3. The State Water Board's Conflict of Interest Code was last revised in 2005. Because new positions were designated and some positions were eliminated or renamed, the Appendix to the Code, which contains the State Water Board's list of designated positions and corresponding disclosure categories for the State and Regional Water Boards, must be updated.
4. A revised Appendix was, therefore, prepared and circulated for a 60-day public comment period.
5. The revised Appendix was amended in response to comments received.

THEREFORE BE IT RESOLVED THAT:

The revised Appendix is adopted, and the Executive Director is authorized to transmit it, with the required declaration, to the Fair Political Practices Commission for approval.

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 July 19, 2006.

DRAFT

Song Her
Clerk to the Board