

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF FINANCIAL ASSISTANCE
MAY 19, 2015**

ITEM 5

SUBJECT

CONSIDERATION OF A PROPOSED RESOLUTION DELEGATING AUTHORITY AND ADOPTING GUIDELINES TO ADMINISTER FUNDING TO PROVIDE INTERIM EMERGENCY DRINKING WATER TO DISADVANTAGED COMMUNITIES WITH CONTAMINATED DRINKING WATER SUPPLIES AND FUNDING TO ADDRESS DROUGHT-RELATED DRINKING WATER EMERGENCIES OR THREATENED EMERGENCIES

DISCUSSION

Extremely dry conditions have persisted in the State of California (State) since 2012 and are likely to continue through 2015, which may be the driest year on record. Water supplies of the State are at a record low, resulting in potential risks to human health and the environment. Current drought conditions may exacerbate the contamination of drinking water sources in communities across the State and may leave other communities with no access to safe drinking water.

On January 17, 2014, the Governor issued a “Proclamation of a State of Emergency” due to drought conditions in the State. In 2014, Senate Bill 103 (Stats. 2014, ch. 2) provided \$15 million in general funds to the California Department of Public Health (CDPH) for assistance to public water systems addressing drought-related drinking water emergencies or threatened emergencies. Sixty-nine projects have been funded and several are pending approval, which should result in the use of nearly the whole \$15 million.

Senate Bill 103 also appropriated \$4 million from the State Water Pollution Cleanup and Abatement Account (CAA) to the State Water Resources Control Board (State Water Board) to “provide interim emergency drinking water to disadvantaged communities with contaminated drinking water supplies, without regard to the source of contamination, including those contaminated drinking water supplies exacerbated by drought conditions.” Thirteen projects have been approved and several projects pending approval should result in expenditure of all of the appropriated funds.

Assembly Bill 91 (Stats. 2015, ch. 1) added Item 3940-101-0679 to Section 2.00 of the Budget Act of 2014 to appropriate \$15 million from the CAA to the State Water Board to “address drought-related drinking water emergencies or threatened emergencies, without regard to whether the need for emergency drinking water is as a result of the discharge of waste.” Assembly Bill 91 also added Item 3940-102-0679 to Section 2.00 of the Budget Act of 2014 to appropriate \$4 million from the CAA to the State Water Board to “provide interim emergency drinking water to disadvantaged communities with contaminated drinking water supplies, without regard to the source of contamination, including those contaminated drinking water supplies exacerbated by drought conditions.” In total, there is \$19 million appropriated from the CAA under Assembly Bill 91 for projects that address drinking water emergencies. The proposed resolution establishes procedures for the efficient administration of these funds.

In addition, Assembly Bill 92 (Stats. 2015, ch. 2) amended section 13442 of the Water Code (WC), which addresses eligibility requirements for CAA funds. Eligible entities include public agencies; and tribal governments, not-for-profit organizations, and community water systems serving disadvantaged communities. Amendments to section 13442 also: (1) allow funds to be spent from the CAA on urgent drinking water needs, even if the need is not related to a discharge of waste; (2) exempt eligible entities from state contracting and procurement requirements to the extent necessary to take immediate action to protect public health and safety; and (3) allow the State Water Board to develop guidelines that are exempt from the California Administrative Procedure Act's requirements for administrative regulations and rulemaking (Gov. Code, tit. 2, div. 3, pt. 1, ch. 3.5 [§ 11340 et seq.]).

The CDPH established "Public Water System Drought Emergency Funding Guidelines" for the general fund money appropriated for that purpose last year under Senate Bill 103. The guidelines proposed for adoption by this resolution build off of those previous guidelines with changes made to reflect the appropriations under Assembly Bill 91 and the specific eligibility requirements of WC section 13442. The guidelines proposed for adoption also differ in specifying that it is the board's intent to ensure funds are going to those communities most in need (i.e., without access to alternative sources of funding) and to clarify that failure to expend funds could result in cancellation of the agreement.

The State Water Board Division of Financial Assistance (Division) will coordinate with the Regional Water Quality Control Boards (Regional Water Boards), the Division of Drinking Water district offices, the Office of Emergency Services (OES), and other stakeholders (e.g., environmental justice groups, community assistance groups, etc.) to identify those communities that are most at-risk and would benefit from financial assistance. The State Water Board will also coordinate resources and assistance efforts with other State and Federal entities that provide funding for emergency drinking water supplies.

POLICY ISSUE

Should the State Water Board:

1. Authorize the Executive Director, Deputy Director of the Division, or designee to approve or deny drought-related emergency drinking water funding requests for \$500,000 or less, consistent with Item 3940-101-0679 of Section 2.00 of the Budget Act of 2014?
2. Authorize the Executive Director, Deputy Director of the Division, or designee to approve or deny interim emergency drinking water funding requests for \$500,000 or less, consistent with Item 3940-102-0679 of Section 2.00 of the Budget Act of 2014?
3. Authorize the Executive Director, Deputy Director of the Division, or designee to execute agreements and amendments to disburse funds approved pursuant to Resolved Nos. 1 or 2, and to perform all acts and to do all things necessary and convenient to implement such agreements?
4. Approve the Funding Guidelines in [Attachment A](#) and authorize the Deputy Director of the Division to make non-substantive changes to the Funding Guidelines?
5. Direct the Executive Director, Deputy Director of the Division, or designee to periodically report back to the State Water Board regarding activities undertaken pursuant to this resolution, including, but not limited to, identification of projects funded and any non-substantive changes made to the Funding Guidelines?

FISCAL IMPACT

The Budget Act of 2014, as amended by Assembly Bill 91, has appropriated \$19.9 million from the CAA for this specific purpose. There are not currently sufficient funds in the CAA to fully support this expenditure when all prior commitments to other projects are considered. However, not all prior approved projects will draw on CAA funds during the next fiscal year so on a cash basis funding should be available.

REGIONAL BOARD IMPACT

Yes. The Division of Drinking Water and Regional Water Boards will assist in coordinating with impacted communities that are potentially eligible for emergency drinking water funding.

STAFF RECOMMENDATION

The State Water Board should adopt the proposed Resolution.

<p>State Water Board action on this item will assist the Water Boards in reaching Goal 4 of the Strategic Plan Update: 2008-2012, to comprehensively address water quality protection and restoration, and the relationship between water supply and water quality, and describe the connections between water quality, water quantity, and climate change, throughout California's water planning processes.</p>

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STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2015-

DELEGATION OF AUTHORITY AND ADOPTION OF GUIDELINES TO ADMINISTER FUNDING TO PROVIDE INTERIM EMERGENCY DRINKING WATER TO DISADVANTAGED COMMUNITIES WITH CONTAMINATED DRINKING WATER SUPPLIES AND FUNDING TO ADDRESS DROUGHT-RELATED DRINKING WATER EMERGENCIES OR THREATENED EMERGENCIES

WHEREAS:

1. Due to severe and persistent drought conditions in the State of California (State), the Governor issued a "[Proclamation of a State of Emergency](#)" on January 17, 2014, and a "[Proclamation of Continued State of Emergency](#)" on April 25, 2014;
2. In [Executive Order B-26-14](#), the Governor directed the State Water Resources Control Board (State Water Board), among other agencies, to assist local agencies in identifying and addressing acute drinking water shortages in domestic water supplies;
3. Current drought conditions have exacerbated the impacts of drinking water source contamination and have reduced California communities' access to safe, reliable, and affordable drinking water;
4. Communities that are in greatest need of State funds on an emergency basis are those with limited or no access to alternative sources of safe, reliable, and affordable drinking water and no or limited funds to implement solutions that would provide access to safe, reliable, and affordable drinking water;
5. Assembly Bill 91 (Stats. 2015, ch. 1) added Item 3940-101-0679 to Section 2.00 of the Budget Act of 2014 to appropriate \$15 million from the State Water Pollution Cleanup and Abatement Account (CAA) to the State Water Board to "address drought-related drinking water emergencies or threatened emergencies, without regard to whether the need for emergency drinking water is as a result of the discharge of waste";
6. Assembly Bill 91 also added Item 3940-102-0679 to Section 2.00 of the Budget Act of 2014 to appropriate \$4 million from the CAA to the State Water Board to "provide interim emergency drinking water to disadvantaged communities with contaminated drinking water supplies, without regard to the source of contamination, including those contaminated drinking water supplies exacerbated by drought conditions";
7. Section 13442 of the Water Code identifies entities eligible to apply for this funding, including public agencies, tribal governments that are disadvantaged communities, not-for-profit organizations that serve disadvantaged communities, and community water systems that serve disadvantaged communities;
8. It is the intent of the State Water Board to continue to provide interim emergency drinking water to affected disadvantaged communities and to address drought-related drinking water emergencies and threatened emergencies in an expedient manner;

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9. As required by State Water Board [Resolution 2015-0013](#), staff will condition funding upon compliance with emergency water conservation regulations, to the extent feasible; and
10. It is the intent of the State Water Board to provide the funding referenced in Whereas Nos. 5 and 6 only to those qualifying projects that have no other funding options to address the emergency (e.g., available reserves, other State grants or loans).

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Authorizes the Executive Director, Deputy Director of the Division of Financial Assistance (Division), or designee to approve or deny drought-related emergency drinking water funding requests for \$500,000 or less, consistent with Item 3940-101-0679 of Section 2.00 of the Budget Act of 2014;
2. Authorizes the Executive Director, Deputy Director of the Division, or designee to approve or deny interim emergency drinking water funding requests for \$500,000 or less, consistent with Item 3940-102-0679 of Section 2.00 of the Budget Act of 2014;
3. Authorizes the Executive Director, Deputy Director of the Division, or designee to execute agreements and amendments to disburse funds approved pursuant to Resolved Nos. 1 or 2, and to perform all acts and to do all things necessary and convenient to implement such agreements;
4. Approves the Funding Guidelines in [Attachment A](#) and authorizes the Deputy Director of the Division to make non-substantive changes to the Funding Guidelines; and
5. Directs the Executive Director, Deputy Director of the Division, or designee to periodically report back to the State Water Board regarding activities undertaken pursuant to this resolution, including, but not limited to, identification of projects funded and any non-substantive changes made to the Funding Guidelines.

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 Board held on May 19, 2015.

Jeanine Townsend
Clerk to the Board