

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF WATER RIGHTS
AUGUST 3, 2021**

ITEM 5

SUBJECT

CONSIDERATION OF A PROPOSED RESOLUTION TO ADOPT AN EMERGENCY CURTAILMENT AND REPORTING REGULATION FOR THE SACRAMENTO-SAN JOAQUIN DELTA (DELTA) WATERSHED

DISCUSSION

California and the entire western United States are facing a significant drought in the wake of one of the driest periods on record, driven by climate change and unprecedented hydrologic conditions. Water supply in many parts of California, including the Delta watershed, is insufficient to meet demands and requires urgent action to ensure the protection of health, safety, and the environment.

On April 21, 2021, Governor Gavin Newsom issued a [Proclamation of a State of Emergency](#) for Mendocino and Sonoma counties, in response to drought conditions in the Russian River watershed. On May 10, 2021, Governor Newsom issued an expanded [Proclamation of a State of Emergency](#) (proclamation) for 41 counties, including those in the Sacramento-San Joaquin Delta (Delta) watershed, in response to emergency drought conditions. The May 10, 2021 proclamation directed the State Water Resources Control Board (State Water Board or Board) to consider adoption of an emergency regulation “to curtail water diversions when water is not available at water right holders’ priority of right or to protect releases of stored water” in the Delta watershed. On July 8, 2021, the Governor expanded the emergency declaration to 9 additional counties and called upon Californians to voluntarily reduce their water use by 15 percent.

Where the Governor has declared a state of emergency due to drought conditions, Water Code section 1058.5 gives the State Water Board the authority to adopt emergency regulations to require curtailment of diversions when water is not available under the diverter’s priority of right and to require monitoring and reporting of diversions. Emergency regulations adopted under Water Code section 1058.5 remain in effect for up to one year.

The Delta watershed includes supplies from both the Sacramento and San Joaquin Rivers. These river systems, including their tributaries, drain water from approximately 40 percent of California’s land area, supporting a variety of beneficial uses of water. The Delta is one of the most important ecosystems in California, as well as the hub of California’s water supply system. The Delta and its tributaries provide essential habitat to a vast array of aquatic, terrestrial, and avian wildlife. Water from the Delta provides a portion of the supplies to more than two-thirds of Californians, supports industry, and is

used to irrigate millions of acres of farmland. Given the importance of the water supplies in the Delta watershed for multiple beneficial uses and the extreme limitations in water supplies this year, urgent action is needed to immediately curtail water users when water supplies are not available under their priority of right.

The Department of Water Resources' State Water Project and the U.S. Bureau of Reclamation's Central Valley Project (collectively Projects) are, in addition to supplying water to a significant number of water users and uses, responsible for providing salinity control and meeting environmental flows in the Delta, as well as specific requirements for flows and temperature management on Delta tributaries. Currently, most Project reservoir storage levels are at historical lows, creating significant concerns for salinity control, municipal water supplies, and temperature management and other environmental needs this year and going into next year. Unauthorized or other illegal diversions result in the need for additional releases of stored water from Project reservoirs to repel salinity intrusion from the ocean and meet other minimal environmental needs and water quality objectives.

The State Water Board has developed a methodology to determine when natural and abandoned water supplies are unavailable for direct diversion or diversion to storage by water right holders and claimants in the Delta watershed ([Water Unavailability Methodology](#) or Methodology). The Methodology uses the best data available to the Board and was the subject of a May 21, 2021 Staff Workshop and a June 1, 2021 Board Informational Item. The Methodology was updated from that used in the 2012-16 drought to address public comments and make other improvements. To date, the Methodology has been used to support the issuance of notices of water unavailability to water right holders and claimants in the Delta watershed.

The emergency regulation, if adopted, would implement curtailments based on the latest version of the [Water Unavailability Methodology](#) for determining which water right holders and claimants face insufficient supplies for diversion based on their priorities of right. As appropriate, other publicly available and reliable information will also be used to inform short-term suspension and re-imposition of curtailments based on precipitation and runoff events. Curtailment orders could be issued when water is not available at water right holders' or claimants' priority of right, which has the effect of protecting releases of stored water needed to: 1) maintain salinity control; 2) protect minimum human health and safety needs; and 3) minimize impacts to fish and wildlife should dry conditions persist into 2022. The emergency regulation would also provide the State Water Board with a more streamlined enforcement process, establish enhanced reporting requirements, and provide a mechanism for ensuring minimum health and safety supplies.

POLICY ISSUE

Should the State Water Board adopt the proposed resolution?

FISCAL IMPACT

This activity is budgeted within existing resources and no additional fiscal demands on the Water Boards will occur as a result of approving this item.

REGIONAL BOARD IMPACT

None.

STAFF RECOMMENDATION

Approve resolution adopting emergency regulation.