

June 30, 2014

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State Water Resources Control Board
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Subject: 7/1-2/14 Board Meeting, Comments on Agenda Item 5 - Consideration of a proposed Resolution regarding drought related emergency regulations for curtailment of diversions to protect senior water rights

To the Clerk of the Board:

The State Water Contractors (“SWC”) appreciates the opportunity to comment on the State Water Resources Control Board’s consideration of a proposed resolution to adopt emergency regulations for curtailment of diversions to protect senior water rights. The State Water Contractors support curtailments if done consistent with water rights priorities as further discussed below.

The SWC is a non-profit, mutual benefit corporation comprised of 27 public agencies holding contracts to purchase water delivered by the State Water Resources Development System, otherwise known as the State Water Project (“SWP”), which is owned and operated by the Department of Water Resources.¹ SWC’s member agencies provide water for drinking, commercial, industrial, and agricultural purposes to a population of more than 25 million people and to over 750,000 acres of farmland throughout the San Francisco Bay-Area, the Central Valley of California, and Southern California. The SWP’s primary purpose is to store and deliver water to the SWC member agencies. SWC member agencies pay all costs incurred by the CDWR to operate and maintain the SWP. SWP water deliveries are vital to California’s health, welfare, and economy.

¹The SWC members are: Alameda County Flood Control & Water Conservation District, Zone 7; Alameda County Water District; Antelope Valley-East Kern Water Agency; Casitas Municipal Water District on behalf of the Ventura County Flood Control District; Castaic Lake Water Agency; Central Coast Water Authority on behalf of the Santa Barbara County Flood Control & Water Conservation District; City of Yuba City; Coachella Valley Water District; County of Kings; Crestline-Lake Arrowhead Water Agency; Desert Water Agency; Dudley Ridge Water District; Empire-West Side Irrigation District; Kern County Water Agency; Littlerock Creek Irrigation District; The Metropolitan Water District of Southern California; Mojave Water Agency; Napa County Flood Control & Water Conservation District; Oak Flat Water District; Palmdale Water District; San Bernardino Valley Municipal Water District; San Gabriel Valley Municipal Water District; San Geronimo Pass Water Agency; San Luis Obispo Co. Flood Control & Water Conservation District; Santa Clara Valley Water District; Solano County Water Agency; and Tulare Lake Basin Water Storage District.

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The State Water Resources Control Board proposes to adopt emergency regulations to curtail water diversion to protect senior water rights, including stored water. Currently, stored water from the SWP and the Central Valley Project (“CVP”) is being released to meet water supply contracts and water quality standards in the Delta. However, if stored water is being illegally diverted, the SWP and the CVP will be required to release additional stored water, hastening the depletion of the stored water supply in upstream reservoirs. Furthermore, due to the extreme drought, SWC member agencies have purchased water, which is being transported through the Feather, Yuba, Bear, Sacramento rivers and across the Delta in July through September. Illegal diversions decrease the amount of water available to the agencies that paid for this water and are relying on it. This would be a problem for the SWC member agencies in any year, but is an especially serious concern this year.

For these reasons, the SWC supports protecting senior and stored water rights from being illegally diverted by other users. However, the SWC believes that curtailments should only be done in a manner that is consistent with California water law and protects the water rights priority system.

The SWC also supports section 878.3, which allows for alternative water sharing agreements and requires that notices of petitions and decisions regarding alternative sharing agreements will be posted and interested parties will be given an opportunity to file an objection to address their concerns.

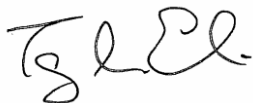
As a point of clarification, it appears that section 878.1 does not apply to the curtailments made pursuant to section 875, which currently being considered by the State Water Resources Control Board. Section 878.1 currently reads:

(a) This section shall not apply to curtailments issued under section 875 of this article.

Since the only other emergency regulations are in regards to Deer, Mill and Antelope creeks, SWC suggest editing the language in Section 878.1 (a) to read as follows: “This section only applies to curtailments issued under section 877.” It appears that this is the intent of the language as drafted and the suggested language is less ambiguous.

Finally, SWC appreciates the State Water Resources Control Board’s time and effort regarding this critical issue as we face one of the driest years on record. Thank you again for the opportunity to comment.

Sincerely,



Terry L. Erlewine
General Manager