

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF WATER RIGHTS
MAY 20, 2014**

ITEM 12

SUBJECT

CONSIDERATION OF A PROPOSED RESOLUTION REGARDING DROUGHT-RELATED EMERGENCY REGULATIONS FOR CURTAILMENT OF DIVERSIONS DUE TO INSUFFICIENT FLOW FOR SPECIFIC FISHERIES

DISCUSSION

On January 17, 2014, Governor Brown declared a drought state of emergency. On that same day, the State Water Resources Control Board (State Water Board) issued a Notice of Surface Water Shortage and Potential for Curtailment of Water Right Diversions. The notice advised that if dry weather conditions persist, the State Water Board would notify water right holders in critically dry watersheds of the requirement to limit or stop diversions of water under their water right, based on their priority. On March 1, 2014, Governor Brown signed a drought relief package, SB 104, which, among other things, expanded the State Water Board's authority under Water Code section 1058.5.

Water Code section 1058.5 grants the State Water Board the authority to adopt emergency regulations in certain drought years in order to: "prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion, of water, to promote water recycling or water conservation, to require curtailment of diversions when water is not available under the diverter's priority of right, or in furtherance of any of the foregoing, to require reporting of diversion or use or the preparation of monitoring reports."

The emergency regulations will establish drought emergency minimum flow requirements for the protection of specific runs of federal- and state-listed anadromous fish in three tributaries to the Sacramento River: Mill Creek, Deer Creek and Antelope Creek. The regulations would provide the State Water Board with a more streamlined process to curtail diversions of water to prevent unreasonable diversion or use of water such that appropriate minimum amounts of water are available for: (1) public trust needs for minimum flows for migration of state- and federally-listed anadromous fish in Mill Creek, Deer Creek and Antelope Creek; (2) senior water rights; and (3) minimum health and safety needs. Under the emergency regulations, the State Water Board would curtail water diversions on a water right priority basis, except when water is needed for basic municipal and domestic health and safety needs, or other critical health and safety needs as determined on a case-by-case basis. The emergency regulations also allow for local cooperative solutions as an alternative means of reducing water diversions to meet the minimum instream flow requirements or otherwise protect the identified fishery resources.

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 will occur as a result of approving this item.

REGIONAL BOARD IMPACT

None.

STAFF RECOMMENDATION

Staff recommends that the State Water Board adopt the proposed resolution adopting the emergency regulation.

State Water Board action on this item will assist the Water Boards in reaching Goal 6 of the Strategic Plan Update: 2008-2012 to enhance consistency across the Water Boards, on an ongoing basis, to ensure our processes are effective, efficient, and predictable, and to promote fair and equitable application of laws, regulations, policies and procedures.