

STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2000 - 079

RESOLUTION FINDING A CONDITION OF EMERGENCY AND ADOPTING
EMERGENCY REGULATIONS SETTING FORTH PROCEDURES FOR THE SELECTION
OF PRIVATE ARCHITECTURAL, LANDSCAPE ARCHITECTURAL, ENGINEERING,
ENVIRONMENTAL, LAND SURVEYING, OR CONSTRUCTION PROJECT
MANAGEMENT FIRMS

WHEREAS:

1. Section 4526 of the Government Code requires state agencies to adopt by regulation procedures for the selection of private architectural, landscape architectural, engineering, environmental, land surveying, or construction project management firms.
2. Pursuant to section 25299.36 of the Health and Safety Code or section 13304 of the Water Code, a Regional Water Quality Control Board at any time may need to contract with a private professional services firm for corrective action to address a situation which requires prompt action to protect human health or the environment or to prevent substantial pollution, nuisance, or injury to any waters of the state.
3. The Division of Water Rights at the State Water Resources Control Board needs to contract with private professional services firms to prepare environmental documents required by the California Environmental Quality Act because existing staff cannot timely process the volume of pending water rights applications and petitions for change in a water right permit.
4. On June 19, 2000, the State Water Resources Control Board's proposed emergency regulations became effective, satisfying the statutory requirement and enabling the boards to enter contracts with private professional services firms. The emergency regulations, California Code of Regulations, title 23, sections 3870 – 3880, expire on October 17, 2000. The State Water Resources Control Board is currently in the process of adopting permanent regulations, but the rulemaking will not be completed before the emergency regulations become ineffective.
5. On October 18, 2000, absent readoption of the emergency regulations, the State Water Resources Control Board and Regional Water Quality Control Boards will no longer be able to enter contracts with the specified private professional services firms, and thus will be unable to address situations requiring corrective action or environmental reporting. This situation is an emergency requiring the immediate readoption of existing emergency regulations in order to preserve the public peace, health and safety, and general welfare.
6. It is anticipated that proposed permanent regulations will be presented to the State Water Resources Control Board for adoption in January 2001. If delivery of the proposed permanent regulations to the Office of Administrative Law is unexpectedly delayed, or further revisions are required to obtain Office of Administrative Law approval, the

emergency regulations adopted by this resolution could expire before permanent regulations are in effect. This possibility may require readoption of emergency regulations.

THEREFORE BE IT RESOLVED THAT:

1. For the reasons set forth in the Finding of Emergency prepared in connection with the proposed regulations, a condition of emergency exists for the purposes of Government Code section 11346.1, subdivision (b) justifying the immediate readoption of the proposed regulations in order to preserve the public peace, health and safety, and general welfare.
2. The provisions of Title 23, California Code of Regulations, Division 3, Chapter 29, sections 3870 to 3880 are readopted on an emergency basis, and the Executive Director is authorized to transmit the proposed regulations to the Office of Administrative Law for filing with the Secretary of State.
3. If the Executive Director finds that there is a substantial risk that the provisions of Title 23, California Code of Regulations, Division 3, Chapter 29, sections 3870 to 3880 will expire before permanent regulations take effect, the Executive Director is authorized to adopt emergency regulations as appropriate to provide authority for the State Water Resources Control Board and the Regional Water Quality Control Boards to contract with private architectural, landscape architectural, engineering, environmental, land surveying, or construction project management firms. This delegation includes authorization to make a finding or findings of emergency, to readopt emergency regulations with any revisions determined to be appropriate by the Executive Director, and to transmit any emergency regulations adopted by the Executive Director to the Office of Administrative Law for filing with the Secretary of State.

CERTIFICATION

The undersigned, Administrative Assistant 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 September 21, 2000.

/s/

Maureen Marché

Administrative Assistant to the Board