

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF WATER RIGHTS
JANUARY 5, 2022**

ITEM 6

SUBJECT

WORKSHOP TO RECEIVE PUBLIC COMMENTS ON: 1) A DRAFT ORDER ACTING ON PETITIONS FOR RECONSIDERATION OF THE EXECUTIVE DIRECTOR'S JUNE 1, 2021 ORDER CONDITIONALLY APPROVING A PETITION FOR TEMPORARY URGENCY CHANGES (TUCP) TO DECISION 1641 (D-1641) REQUIREMENTS AND THE EXECUTIVE DIRECTOR'S JUNE 10, 2021 SACRAMENTO RIVER TEMPERATURE MANAGEMENT PLAN APPROVAL; AND 2) A TUCP TO MODIFY D-1641 REQUIREMENTS IN 2022

DISCUSSION

A workshop will be held to discuss the following issues.

DRAFT ORDER

On December 15, 2021, the State Water Resources Control Board (State Water Board or Board) released for public review and comment a draft Order Denying in Part and Granting in Part Petitions for Reconsideration of the Executive Director's June 1, 2021 Order Conditionally Approving a Petition for Temporary Urgency Changes to License and Permit Conditions Requiring Compliance with Delta Water Quality Objectives in Response to Drought Conditions; and the Executive Director's June 10, 2021 Sacramento River Temperature Management Plan Approval Pursuant to Order 90-5 (draft Order).

On May 17, 2021, the Department of Water Resources (DWR) and the United States Bureau of Reclamation (Reclamation) jointly filed a Temporary Urgency Change Petition (TUCP) to temporarily modify terms and conditions in their water right license and permits for the State Water Project (SWP) and Central Valley Project (CVP) that require compliance with certain flow and water quality objectives in the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta Plan) as required by State Water Board Revised Decision 1641. The State Water Board's Executive Director issued an Order on June 1, 2021, conditionally approving the TUCP (TUCP Order) to address critically dry conditions associated with California's ongoing drought. The TUCP Order temporarily modified Delta outflow requirements from June through July and agricultural water quality requirements from June through August 15 of 2021. Five petitions for reconsideration of Executive Director's approval of the TUCP Order were received in summer 2021.

Reclamation submitted a final Sacramento River Temperature Management Plan (TMP) to the State Water Board on May 28, 2021, pursuant to State Water Board Order 90-5. The State Water Board Executive Director conditionally approved the Sacramento River TMP on June 10, 2021. Two petitions for reconsideration of the Executive Director's approval of the Sacramento River TMP were received in summer of 2021.

Under Water Code section 1122 and California Code of Regulations, title 23, sections 768 -770, any interested person may file a petition for reconsideration of an order or decision made under authority delegated to an office or employee (the Executive Director in this case) of the State Water Board. Pursuant to these requirements, multiple parties submitted petitions for reconsideration for both decisions of the Executive Director: the June 1 TUCP Order and June 10 approval of the TMP.

The draft Order responds to comments, objections, protests, and petitions for reconsideration related to the June 1, 2021 TUCP Order and the June 10, 2021 Sacramento River TMP approval. The draft order denies in part and grants in part petitions for reconsideration of the TUCP Order and Sacramento River TMP. Conditions are proposed in the draft Order in response to substantial issues raised in the petitions to the extent that the petitions seek to improve planning for 2022 drought conditions.

Temporary Urgency Change Petition for Water Year 2022

On December 1, 2021, DWR and Reclamation jointly filed a TUCP with the State Water Board pursuant to California Water Code section 1435 et seq. to temporarily change the Petitioners' permit and license terms and conditions for the SWP and CVP that were imposed pursuant to D-1641 and require the Petitioners to meet specified flow and water quality objectives established in the Bay-Delta Water Quality Control Plan. Unless a shorter time period is specified, the changes sought by a TUCP may remain in effect for up to 180 days. An order approving a TUCP may be modified or revoked at the discretion of the State Water Board and may be renewed.

The December 1, 2021 TUCP seeks modifications to D-1641 requirements during the February through April 2022 time period that, if approved, would modify: (1) required Delta outflow levels depending on conditions and forecasts; (2) allowable exports when unmodified D-1641 Delta outflow requirements are not being met; (3) required San Joaquin River flow requirements; and (4) required Delta Cross Channel Gate closure requirements.

POLICY ISSUE

This is a workshop and no final action will be taken.

FISCAL IMPACT

This is a workshop and no final action will be taken.

REGIONAL BOARD IMPACT

None

STAFF RECOMMENDATION

N/A – this is a workshop.