

Fiscal Impact Statement

Fiscal Effect on Local and State Government

The fiscal effects resulting from the proposed emergency regulation are the costs that would be incurred by state and local government agencies to respond to any requirements therein, pursuant to Government Code section 11346 et seq. This Fiscal Impact Statement has been prepared in accordance with State Administrative Manual 6600-6616.

The four fiscal effects incurred by state and local government agencies as a result of the proposed emergency regulation include the costs: (1) to complete and submit initial compliance certification and ongoing diversion reporting; (2) for the Mendocino County Russian River Flood Control and Water Conservation Improvement District (Flood Control District) and Sonoma County Water Agency to develop a water accounting agreement for stored water in Lake Mendocino; (3) for the City of Ukiah to replace curtailed surface water diversions with groundwater; and (4) to State agencies associated with the review of water substitutions under section 878.

The State Water Resources Control Board (State Water Board) estimates the total cost to all state and local (including city, county, schools and publicly owned water suppliers) agencies due to the emergency regulation as \$729,340. The total cost for all local and state agencies to complete and submit the initial compliance certification and biweekly reporting is \$39,500. The total cost for the Flood Control District and Sonoma County Water Agency to negotiate an agreement for Lake Mendocino stored water is \$25,000. The total cost for pre-1914 right holders to switch to their available groundwater supply is \$658,240. The cost to State agencies reviewing water substitution proposals is \$6,600. The resulting total cost to State agencies (initial compliance certification, biweekly reporting, and review of water substitution reviews) is \$9,350. The total cost for local agencies is \$719,990. No reimbursable expenses were identified.

Reporting Costs for State and Local Agencies

The State Water Board expects there will be fiscal impacts on public agencies due to the costs of reporting and self-certification requirements, as proposed in section 879. There are two potential costs to state and local agencies: (1) the costs associated with submittal of the initial compliance certification which all public agency right holders in the Upper and Lower Russian River watersheds must complete upon being issued a curtailment order, and (2) the costs for public right holders to complete required reporting when continuing to divert for minimum human health and safety needs.

The State Water Board identified a total of 28 public water agencies that divert water in the Upper and Lower Russian River watersheds, with 16 of those agencies diverting in the Upper Russian River watershed. Public water suppliers who rely on groundwater supplies or on water from outside the watershed will not be subject to curtailment orders under the emergency regulation and therefore are excluded from this estimate.

The potential fiscal impacts include the costs to local government agencies to complete and submit the online initial compliance certification and the regular diversion reporting. To conservatively estimate the cost of the regulation, the State Water Board determined the total number of state and local government agencies in the Russian River watershed and multiplied that number by an average time to complete the online form, multiplied by an estimated staff cost per hour. The estimated amount of time required to complete the forms will depend on whether each entity already has documentation regarding its diversion and use, or whether the entity will need to obtain such information. The State Water Board has estimated that completion of its online initial compliance certification is expected to take one hour. It is estimated that the total time for each state or local agency to complete the regular reporting will be 1.5 hours per report. The reporting frequency, while not prescribed in the regulation, is conservatively assumed to be biweekly for this analysis. The State Water Board recognizes that some agencies may have less frequent reporting requirements. The State Water Board conservatively estimates that curtailments could remain in place through 2021, therefore biweekly reporting would be required from July 15, 2021 through December 31, 2021, for a total of 12 reports. The State Water Board has used an estimate of \$125 per hour for staff time and overhead costs, conservatively representing a general manager role based on 2019 records from the California State Controller's Government Compensation in California database for local water agencies.

Using these values, the cost to the State of California to complete the one-time compliance certification is estimated to be \$3,500 (24 local agencies and 4 state agencies multiplied by \$125 per hour, multiplied by 1 hour) and the regular reporting from July 15, 2021 through December 31, 2021, is estimated to be \$36,000 (15 local agencies and one state agency multiplied by \$125 per hour, multiplied by 1.5 hours, multiplied by 12 biweekly reports). Therefore, the total cost to all local (including city, county, schools, and publicly owned water suppliers) for certification and reporting is conservatively estimated at \$36,750; the total cost to state agencies for certification and reporting is conservatively estimated at \$2,750.

Specific Local Costs for an Agreement on Allocating Water Stored in Lake Mendocino

Section 877.6 requires the Flood Control District and Sonoma County Water Agency to jointly submit an executed agreement regarding stored water in Lake Mendocino. The State Water Board assumes that each of the two entities will appoint an attorney to develop the agreement, and thus will incur costs to fulfill this requirement. It is estimated that each attorney will spend 25 hours to prepare and draft the agreement. The State Water Board has used a conservative upper estimate of \$500 per hour in legal fees for each entity. Therefore, the total estimated impact for the Flood Control District and Sonoma County Water Agency to formalize an agreement is \$25,000.

Costs Carried by Local Agencies with Curtailed Pre-1914 Water Rights

Water Right holders with a valid pre-1914 right subject to a Curtailment Order will be unable to divert what nominal natural or abandoned flows might otherwise be available to them and may increase pumping from available groundwater supplies to offset the curtailed surface water diversion. The State Water Board has identified one local agency that may bear costs in this circumstance: the City of Ukiah. The costs for replacing curtailed surface water diversions with groundwater have been calculated by assigning a value to each unit of water in excess of the minimum human health and safety need exemption provided for in the regulation. For this analysis, curtailments are assumed to be in place from July 15, 2021 through December 31, 2021, which is 169 days.

According to statements made by representatives of the City of Ukiah, their pre-1914 appropriative water right provides a diversion rate of 2.8 cubic feet per second (cfs). As reported to the State Water Board, the City of Ukiah public water system serves a population of 16,105 individuals; at 55 gallons per capita per day, the City of Ukiah might divert up to 1.4 cfs under an exemption to a curtailment order for minimum human health and safety needs. The State Water Board expects that the City could incur a range of costs or lost revenue depending on whether it seeks to offset the curtailed surface water diversions with increased groundwater pumping or to mitigate the curtailments with the implementation of a water conservation program. The costs could range from a nominal cost savings to the maximum cost estimated below.

The State Water Board has made a conservative assumption that the variable usage water rate component of a utility's water rate represents the unit cost for replacing curtailed surface water with groundwater. This water rate component typically is designed to recover costs that vary with the amount of water produced. Typical expenditures covered by the variable usage water rate component include utility pumping, treatment, and chemical costs. In this analysis, the State Water Board uses \$3.22 per hundred cubic feet for the utility's variable usage water rate component as described in a City of Ukiah water rate study showing the water rate in place during the summer of 2020.

The maximum range of costs for the local agency is conservatively estimated at \$658,240 (\$3.22 per hundred cubic feet, multiplied by 1.4 cubic feet per second, multiplied by 169 days).

State Agency Costs for Review and Approval of Water Substitutions

Section 878(c) allows for certain direct diversions to continue after the issuance of a Curtailment Order when an approved substitution of stored water or groundwater into the Russian River or a tributary takes place. Such a substitution requires the approval of the Deputy Director for the Division of Water Rights, the Executive Director of the North Coast Regional Water Quality Control Board, and the California Department of Fish and Wildlife. The State Water Board expects there to be labor costs associated with these approvals. However, the Division of Water Rights will bear the cost, as with other costs,

in preparing and implementing the regulation and the North Coast Regional Water Quality Control Board will process reviews and approvals through an existing fee-funded process for low-thread discharges. Expenses of the California Department of Fish and Wildlife (CDFW) are the sole expected unaccounted expense.

The total costs are determined from an hourly labor cost for CDFW, an estimate of the number of hours needed to review a proposal, and a conservative estimate of the number of proposals. The State Water Board has estimated the CDFW labor cost at \$165 per hour and that each review will take no more than eight hours. The substitutions are a new concept in the watershed and the State Water Board does not expect substantial participation in the year that the emergency regulation will be effective. At most, the State Water Board expects five proposals to require CDFW review. In total, the State agency costs associated with this section are estimated at \$6,600 (5 proposals, multiplied by \$165 per hour for 8 hours).