

San Geronio Pass Water Agency

DATE: June 13, 2022

TO: Board of Directors

FROM: Jeff Ferre, Legal Counsel

SUBJECT: ADOPT RESOLUTION 2022-14 DECLARING A STAGE 2 WATER SHORTAGE PURSUANT TO THE AGENCY'S WATER SHORTAGE CONTINGENCY PLAN AND AS REQUIRED BY THE STATE WATER RESOURCES CONTROL BOARD

RECOMMENDATION

It is recommended that the Board of Directors adopt Resolution 2022-14 declaring a Stage 2 Water Shortage pursuant to the Agency's Water Shortage Contingency Plan and as required by Emergency Regulations of the State Water Resources Control Board.

BACKGROUND

The State of California is currently in its third year of drought. The past three water years were the driest three-year sequence on record for precipitation in California. In addition, the Department of Water Resources has set a five percent allocation for State Water Project Table A supplies, resulting in the lowest 3-year total deliveries from the State Water Project.

Following the driest three months on record for 2022 (January – March), on March 28, 2022, Governor Newsom issued Executive Order (N-7-22) directing the State Water Resources Control Board ("SWRCB") to consider adopting drought emergency water conservation regulations to prepare for and mitigate the effects of the ongoing drought conditions. On May 24, 2022, the SWRCB adopted Emergency Regulations to reduce water demand and improve water conservation. The Emergency Regulations require the Agency to implement the demand reduction measures identified in its WSCP for Stage 2 by June 10, 2022. It is recommended that the Board diligently proceed to adopt the proposed Resolution on this 13th day of June, taking into account: (1) the Board meeting schedule after the Emergency Regulations were adopted; (2) the role of the Agency as a wholesaler, as opposed to direct actions required of retailers; and (3) the actions the Agency has already taken to address Stage 2 requirements.

ANALYSIS

The Agency is not currently projecting water supply shortage conditions within a Stage 2 shortage, but nevertheless, it must implement the demand reduction measures identified in the WSCP for a Stage 2 in order to comply with the SWRCB Emergency Regulations.

The activities to be performed by the Agency during a Stage 2 water shortage are set forth in the WSCP and are delineated in the proposed Resolution. The Agency has

already taken actions that meet some of the Stage 2 requirements, and those actions are also delineated in the proposed Resolution. The measures for which actions have already been taken are explained below:

Implementation of a public information campaign - The Agency has retained the services of a public relations firm that specializes in public information campaigns for water agencies.

Conducting educational programs in area schools - The Agency has contracted with the Inland Empire Resource Conservation District to conduct an educational water conservation program in area schools.

Access alternative water supplies to address supply deficits, as needed - The Agency has: (i) entered into the Yuba Accord; (ii) contracted for the Nickel Water; and (iii) entered into an Agreement with the City of Ventura whereby the City will transfer SWP Water to the Agency.

FISCAL IMPACT

Implementation of the actions identified in the proposed Resolution may result in increases to operating costs. The WSCP states that the Agency does not normally experience unusual financial consequences from water shortage conditions. It is stated in the WSCP that water shortage conditions may result in some lost revenue due to the lack of water sales to retail agencies, but these conditions are anticipated as part of the Agency's ongoing financial considerations. Accordingly, it is not anticipated that unusual financial consequences will result from implementing the WSCP.

RESOLUTION 2022-14

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN GORGONIO PASS WATER AGENCY DECLARING A STAGE 2 WATER SHORTAGE PURSUANT TO ITS WATER SHORTAGE CONTINGENCY PLAN

WHEREAS, a third consecutive year of exceptionally low precipitation, snowpack, and runoff is impacting California's water supplies and resulting in near record low storage in California's largest reservoirs; and

WHEREAS, on March 18, 2022, the Department of Water Resources reduced the State Water Project ("SWP") allocation from 15 percent to 5 percent of contract amounts. This is the second consecutive year of 5 percent allocation and is the lowest three-year combined allocation in the history of the SWP; and

WHEREAS, on March 28, 2022, Governor Newsom issued Executive Order N-7-22 directing the State Water Resources Control Board ("SWRCB") to consider adopting drought emergency water conservation regulations to prepare for and mitigate the effects of the drought conditions; and

WHEREAS, on May 24, 2022, the SWRCB adopted Emergency Regulations for urban drought response actions, specifically requiring all urban water suppliers who submitted a Water Shortage Contingency Plan to the Department of Water Resources to implement at minimum, all demand reduction actions identified in the supplier's Water Shortage Contingency Plan for a shortage level of ten to twenty percent by June 10, 2022; and

WHEREAS, the Agency is an urban water supplier as defined in Water Code Section 10617 and Section 996(9) of the Emergency Regulations in that the Agency: (1) provides water for municipal purposes indirectly to more than 3000 customers; (2) supplies more than 3,000 acre-feet of water annually; and (3) is a supplier and contractor for water which is distributed or sold for ultimate resale to customers. The Agency has adopted a Water Shortage Contingency Plan ("WSCP") which was incorporated into its 2020 Urban Water Management Plan; and

WHEREAS, under N-7-22 and the SWRCB Emergency Regulations, the Agency is required to implement all demand reduction actions identified in its WSCP for a stage 2 shortage level by June 10, 2022; and

WHEREAS, the Agency is a wholesale water agency formed under the "San Gorgonio Pass Water Agency Law" set forth in Water Code Appendix 101-1 et seq. and is empowered to implement and enforce its WSCP and water shortage response actions. Section 101-15(m) authorizes the Agency to restrict the use of Agency water during any emergency caused by drought, or other threatened or existing water shortage, and to prohibit the wastage of Agency water or the use of Agency water during such periods, for any purpose other than household uses or such other restricted

uses as may be determined to be necessary by the Agency and to prohibit the use of such water during such periods for specific uses which the Agency may from time to time find to be nonessential; and

WHEREAS, the Agency is able to exercise general powers granted to water distributors in Water Code Sections 350- 359 and 375-378. Water Code Section 350 authorizes the governing body of a distributor of a public water supply to declare a water shortage emergency. Upon a finding of such an emergency condition, the distributor can adopt such regulations and restrictions on the delivery and consumption of water as will conserve the water supply for the greatest public benefit, with particular regard to domestic use, sanitation, and fire protection. (Water Code Section 353); and

WHEREAS, pursuant to the WSCP, the Agency, through its Board of Directors (Board) and with administrative discretion delegated to the General Manager, may take action by resolution to make a water shortage declaration.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE SAN GORGONIO PASS WATER AGENCY DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. Incorporation of Recitals All of the foregoing Recitals are true and correct, and the Board so finds and determines. The Recitals set forth above are incorporated herein and made an operative part of this Resolution.

SECTION 2. Compliance with SWRCB Emergency Regulation The Board hereby determines that the Agency is not currently projecting water supply shortage conditions within a Stage 2 shortage, but nevertheless, it must implement the demand reduction measures identified in the WSCP, Stage 2, to comply with the SWRCB Emergency Regulations.

SECTION 3. Declaration Of Stage 2 (11-20 percent shortage) The Board hereby declares a Stage 2 (11-20 percent shortage). The activities to be performed by the Agency during a Stage 2 water shortage are set forth below. Also set forth below are descriptions of the actions the Agency has already taken.

(a) Implement voluntary water conservation measures which are applicable to the Agency's operations, and in accordance with measures imposed by the applicable retail agency, to a level addressing up to 20% water conservation savings.

(b) Implement a public information campaign which may consist of the distribution of literature, speaking engagements, website updates, bill inserts, and conversation messages printed in local newspapers.

Action Taken – The Agency has retained the services of a public relations firm which specializes in public information campaigns for water agencies. Plans are being developed and will soon be implemented.

- (c) Conduct educational programs in area schools.

Action Taken – The Agency has contracted with the Inland Empire Resource Conservation District to conduct an educational water conservation program in area schools.

- (d) Consider initiating, or working with other entities to facilitate, a “conservation hotline.”
- (e) Access stored supplies to address supply deficits, as needed.
- (f) Access alternative water supplies to address supply deficits, as needed.

Actions Taken

- (i) The Agency is a signatory to the Yuba Accord, an agreement among many water districts in California and the Department of Water Resources that enable the signatories to obtain additional supplies from Yuba County.

- (ii) The Agency contracted for a new supply of “Nickel Water” which is a 20-year supply of 100% reliable water from the Antelope Valley-East Kern Water Agency.

- (iii) The Agency has entered into an Agreement with the City of Ventura whereby the City will transfer SWP Water to the Agency.

SECTION 4. Future Stage(s) The Board may make a determination as to when it may be necessary to move to a further Stage, or a lesser Stage, under its WSCP.

SECTION 5. CEQA The Board finds that adopting and enforcing mandatory restrictions on water use in order to comply with SWRCB Emergency Regulations is exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines Section 15268 and Public Resources Code Section 21080(b)(1) as a ministerial action. The SWRCB Emergency Regulations mandate that each urban water supplier implement demand reduction actions identified in the supplier's Water Shortage Contingency Plan for a shortage level of ten to twenty percent. Therefore, an action to implement a particular drought stage is not a discretionary action, and as such, it is statutorily exempt from CEQA.

SECTION 6. Severability If any section, subsection, clause, or phrase in this Resolution is for any reason held invalid, the validity of the remainder of this Resolution shall not be affected thereby. The Board hereby declares that it would have passed this Resolution and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, or phrases or the application thereof be held invalid.

ADOPTED AND APPROVED this 13th day of June, 2022.

President, Board of Directors
San Geronio Pass Water Agency

ATTEST:

Secretary, Board of Directors
San Geronio Pass Water Agency