

# **PROCESS AND CRITERIA FOR SECRETARIAL DETERMINATION REGARDING DROUGHT EMERGENCY PROJECTS**

## **I. Introduction**

On February 27, 2009, pursuant to his authority under Government Code sections 8625 and 8571, the Governor issued a Proclamation declaring a state of emergency because California is experiencing its third consecutive critically dry year, and severe drought is ravaging the State's physical, social, and economic landscape. The Proclamation acknowledges that severe drought is having devastating consequences on California. These consequences include: increasing the likelihood of severe wildfires that cannot be easily suppressed, depleting already low reservoirs used to service the domestic and municipal needs of the State's increasing population, and increasing destabilization of many local economies that depend heavily on consistent water supply to irrigate seasonal and permanent agriculture. The Governor's February 27, 2009 Proclamation detailing the various impacts of this consecutive drought on the State's water project, its population, and its economy may be found at: <http://gov.ca.gov/press-release/9796>.

## **II. Process**

The Governor's Proclamation directs that:

The emergency exemptions in Public Resources Code sections 21080(b)(3), 21080(b)(4) and 21172, and in California Code of Regulations, title 14, section 15269(c), shall apply to all actions or efforts consistent with this Proclamation that are taken to mitigate or respond to this emergency. In addition, Water Code section 13247 is suspended to allow expedited responses to this emergency that are consistent with this Proclamation.

The Proclamation further provides, in relevant part:

The Secretary for the California Environmental Protection Agency and the Secretary for the California Natural Resources Agency shall determine which efforts fall within these exemptions and suspension, ensuring that these exemptions and suspension serve the purposes of this Proclamation while protecting the public and the environment. The Secretaries shall maintain on their web

sites a list of the actions taken in reliance on these exemptions and suspension.

To assist the Secretaries in making the determination called for in the Proclamation, public agencies must explain how their project serves the purposes of paragraph 17 of the proclamation while protecting the public and environment. As part of the Secretaries' review, please identify the substantial evidence, as that term is defined in California Code of Regulations, title 14, Section 15384, you are using to support your conclusion. An application form, which is available on the Secretaries' websites, should be completed to assist the Secretaries in expediting the review of emergency exemptions and suspensions.

The Secretaries shall make a determination regarding the application and post a list of the actions taken in reliance on the emergency exemptions and suspension on the websites of both Secretaries, as provided in the Proclamation.

### **III. Criteria**

Any project that responds to the emergency drought referenced in the Proclamation qualifies for review and determination by the Secretaries. With respect to the CEQA exemptions, to satisfy the Proclamation and the elements of the emergency statutory exemptions, a project must be (1) an activity that prevents or mitigates the effects of the drought, consistent with the Proclamation, or (2) an activity that involves the maintenance, repair, restoration, demolition or replacement of property or facilities that were damaged or destroyed as a result of the drought.

The following questions provide examples which the Secretaries believe may assist you in preparing your application. Not every question may be applicable, but please describe which criteria below are met by your project, **and** describe the evidence supporting your application.

A. Does the Proposed Project have the potential to provide immediate water supply to areas affected by reduced allocations such as counties in the San Joaquin Valley that were especially impacted by the drought?

B. Does the Proposed Project have the potential to alleviate further revenue and/or crop loss in affected agricultural communities?

C. Does the Proposed Project provide water supply to agriculture and urban areas impacted by low water allocations, particularly the customers of the State Water Project and the Central Valley Project?

D. Does the Proposed Project have the potential to provide water supply to urban areas that have drawn on reserve supplies?

E. Does the Proposed Project have the potential to assist regions that are suffering job loss and economic destabilization associated with the drought?

F. Does the Proposed Project have the potential to reduce extreme peril to the safety of persons and property existing in any location within the State caused by severe drought conditions?

G. Does the Proposed Project have the potential to serve the purposes of the Proclamation by:

- a) Decreasing water use
- b) Facilitating water transfers
- c) Protecting water quality
- d) Protecting the Public and the Environment
- e) Ensuring Hydro-Power and other Infrastructure dependant on consistent water supplies are not compromised?

H. Does the Proposed Project provide any other immediate advantages or solutions that may lessen the severity of the drought for the State or its resources, or lessen the attendant consequences of the drought?

#### **IV. Confirmation**

Confirm that your application complies with existing law and the Proclamation.