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Five Things to Know About the State Water Resources Control Board's Draft Climate Change Resolution

News of the **damaged spillways at Oroville Dam** and corresponding evacuations seemed to coincide perfectly with the State Water Resources Control Board's ("State Board") announcement of its draft resolution on climate change. While California was busy avoiding a catastrophic flood, at least for now, the State Board was devising ways to prevent and prepare for such future events in light of the impacts climate change will have on the state's water resources, namely declining snowpack, longer droughts, severe flooding and rising sea levels. The draft resolution, if adopted, would require the State Board and its staff to incorporate certain climate policies into their operations. The resolution doesn't appear to have an immediate impact on other public agencies or private entities, but this may be the beginning of a new regulatory regime.

1. Energy Efficiency

The draft resolution begins by recognizing the water sector's reliance on greenhouse gas generating fossil fuels to "pump, convey, treat and heat water." Climate mitigation can be achieved by weaning off this reliance and developing ecosystem management. While the resolution only specifically addresses this concern with respect to disadvantaged communities (see Resolution § I.E., Energy Efficiency and Renewable Energy), it is clear that the State Board will be focusing on powering water projects with renewable energy in the near future.

2. Preparation for Climate Events

In light of the recent events at the Oroville Dam, probably the timeliest portions of the draft resolution concern preparing for climate events. A significant portion of the draft pertains to readying California's water supply and infrastructure for drastic weather events, such as flooding and drought. Specifically, the resolution mandates that the State Board staff (and encourages the Regional Water Quality Control Board ("Regional Board") staff) to work with other agencies to "restore and maintain healthy watersheds, reduce vulnerability to catastrophic fires and support resilience in recovery efforts." Staff is also ordered to coordinate projects to build and enhance resilience to impacts of climate change.

3. Climate Change in Permitting and Environmental Review

The State Board is now encouraging all parties to consider climate change impacts in permitting and environmental review. In particular, the draft resolution mandates: 1) State Board staff to incorporate effects of climate change when evaluating and approving projects in the San Francisco Bay/Sacramento-San Joaquin Delta Estuary; 2) the Division of Water Quality to work with the regional boards to make recommendations by July 1, 2018, to the State Board to modify permits and other regulations to account for flooding, storm surge and sea level rise; and, 3) the Division of Financial Assistance to, by July 1, 2017, "ensure that applications and environmental reviews for potential projects account for impacts related to climate change." Given these statements, project applicants can now expect to be required to address climate change concerns and adopt mitigation measures to combat these impacts in the environmental review and permitting process.

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4. Water Conservation

As noted above, the draft resolution discusses the impact of climate change on California's water resources, such as the potential for longer droughts and intense rainfall in lieu of snow. These changes will directly impact California's ability to rely on the storage of water through snowpack or account for large amounts of water all at once. To combat these changes, the resolution directs the Office of Research, Planning, and Performance and the Department of Water Resources to develop and implement water efficiency and conservation regulations in order to make "conservation a California way of life." Again, while there are no immediate impacts from this portion of the resolution, the State Board is clearly committed to conservation and, as a result, it can be expected that conservation mandates, like the ones related to the most recent drought, will be implemented on a more frequent basis.

5. Shoreline Protection

Finally, the draft resolution addresses the effects climate change may have on our coastal water resources. These resources can be directly impacted through sea level rise, ocean acidification and warming water. The resolution directs the Department of Water Quality to identify actions to minimize these impacts and recommends further research. The resolution also directs State Board staff and encourages the Regional Board staff to consider specific data on sea level rise when making recommendations on permits. As such, any water projects or developments near the ocean will need to review and address these impacts when seeking State Board approval.

The State Board will consider the draft resolution on March 7, 2017, and will accept public comments on the draft until March 3, 2017. The complete text of the draft resolution can be found **here**.

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