

## Temporary measures to mitigate severe droughts in Mexico

The General Resolution issued by the Water Commission (“**CONAGUA**”), to initiate a state of emergency due to severe, extreme or exceptional droughts in water basins for the year 2022, entered into force on July 13, 2022 (“**2022 Drought Resolution**”).

The purpose of the 2022 Drought Resolution is to establish extraordinary measures and actions to support the country’s basins in which extreme, severe or exceptional droughts or low water availability were determined.

The concessionaires and assignees of concessions for the exploitation or use of national waters of the basins listed<sup>1</sup> in the 2022 Drought Resolution, may carry out the following actions:

1. Give notice to CONAGUA to provide to third parties on a temporary basis the total or partial use of the volumes covered by a water concession.
2. Temporarily assign or transfer their rights to CONAGUA and request the interruption of the cancellation of the volumes they don’t use under their Water Concession Titles, while the emergency persists.

For water concession titles for industrial and agricultural use, CONAGUA will verify that the volumes subject to a temporary transfer are delivered to the distribution network in coordination with the operating agency, as long as the emergency persists.

Option 2 above could be useful for those concessionaires that currently do not use the total volumes granted under their concession titles, since they will have the option to temporarily transfer to CONAGUA such rights and volumes, request the interruption of the cancellation of the unused volumes, and help CONAGUA mitigate the state of emergency caused by the droughts in the corresponding basins.

Hence, we suggest a case-by-case analysis, to determine the most suitable legal strategy to engage either of the options referred to above. This analysis should include the duration, use and volume of the assignment, as well as the current compliance situation of the water concession title held by the company.

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<sup>1</sup> The listed basins can be consulted at the following link: <https://www.gob.mx/conagua/acciones-y-programas/indicadores-del-tipo-de-sequia>.

Finally, the 2022 Drought Resolution also states that CONAGUA may execute transitory measures such as the temporary limitation of existing water rights, through a provisional reduction of granted water volumes, with the purpose of securing the necessary water supply for domestic and urban public use.

It is important to review the list included in the 2022 Drought Resolution of those basins classified with extreme, severe or exceptional drought or low water availability, in order to determine the current options and obligations that a company may have pursuant to the 2022 Drought Resolution.

For any question related to this note, please contact our experts:

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S I N C E R E L Y

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