




Date: April 17, 2015
To: State Legislative Committee Members
From: Patrick H. West, City Manager 
Subject: **Governor's Executive Order on Water Conservation Regulations**

Introduction

On April 25, 2015, Governor Brown issued an Executive Order mandating substantial water reductions across the State. The announcement came after the California Department Water Resources (DWR) confirmed that the Sierra Nevada snowpack is at 5% of normal levels. The Executive Order contains 31 directives aimed at water conservation by increasing enforcement. It also directs the State and local governments to streamline drought response, and invest in new technologies that can aid in water conservation. The majority of the directives are focused on urban use and have an impact on the City of Long Beach. Please see attached for the full text of the Governor's Executive Order, as well as the City's comment letter in response to the Proposed Regulatory Framework.

Background

In normal precipitation years, the Sierra Nevada snowpack supplies 30% of California's water requirements. As the wettest months of the year have passed, the severity of the State's drought is unprecedented and firmly rooted in its fourth consecutive year. In response to the minimal Sierra Nevada snowpack, Governor Brown issued an Executive Order directed the State Water Board, the Energy Commission, and the DWR to take effective water conservation measures.

Summary of Executive Order

The State Water Resources Control Board. The State Water Resources Control Board is required to impose restrictions on local governments to achieve a 25% statewide reduction in potable water usage. These restrictions will remain in place until February 28, 2016. The Governor's directive requires water suppliers to cities to reduce usage as compared to the amount used in 2013, and requires commercial, industrial, and institutional properties (CII) to reduce potable usage in an amount consistent with the reduction target.

To maximize urban water conservation, the State Water Resources Control Board is to develop a rate structure. The Governor requested that California Public Utilities Commission (PUC) take similar action with respect to investor-owned utilities that provide water services. The State Water Resources Control Board is also required to prohibit irrigation of ornamental turf on public street medians, and outside newly constructed homes and buildings with potable water, and if the water is not delivered by drip or microspray systems. Reductions are to be in effect June 1, 2015 while irrigation prohibitions are effective immediately after approval of the State Water Resources Control Board's adoption of the regulations.

The Department of Water Resources (DWR). DWR is to partner with cities to implement a lawns and ornamental turf replacement program, in which the DWR is to implement a grant program for underserved communities. Further, the Department is required to update the State Model Water Efficient Landscape Ordinance (Ordinance) by increasing water efficiency standards for new and existing landscapes. A required report on the implementation and enforcement of local ordinances is due December 31, 2015. DWR is also required to update the Agricultural Water Management Plan and include quantification of water supplies in preparing the plans. Agricultural water suppliers will be given priority in grant funding from the Department.

Energy Commission (Commission). The Commission is to implement a household appliance rebate program that provides money for households replacing inefficient devices. Emergency appliance standards that improve water efficiency for sale and installation in new and existing buildings are to be adopted by the Commission. A Water Energy Technology (WET) program, which will serve to research water management technologies for businesses, residents, industries, and agriculture, is to be implemented by the Commission.

Current Situation

Existing Emergency Conservation Regulations

On March 27, 2015, the State Water Resources Control Board submitted an emergency action to the State Office of Administrative Law for adoption. This emergency regulatory action became effective on March 27, 2015 and will expire on December 23, 2015.

Prohibited for Everyone:	Required of Business:	Water Suppliers Must:
<ul style="list-style-type: none"> • Cannot use potable water to wash sidewalks & driveways • Cannot have runoff when irrigating with potable water • Cannot use hoses with no shutoff nozzles to wash cars • Cannot use potable water in decorative water features that do not recirculate the water • Cannot use outdoor irrigation during and 48 hours following measurable precipitation 	<ul style="list-style-type: none"> • Restaurants and other food service establishments can only serve water to customers on request • Hotels and Motels must provide guests with the option of not having towels and linens laundered daily 	<ul style="list-style-type: none"> • Impose restrictions on outdoor irrigation • Notify customers about leaks that are within the customer's control • Report on water use monthly • Report on compliance and enforcement

The State Water Resources Control Board. The State Water Resources Control Board is currently soliciting comments on a new Mandatory Conservation Proposed Regulatory Framework. The Regulatory Framework developed by the Water Board consists of four tiers of conservation achievements. Based upon a comparison of June 2013 to February 2014 total water production to June 2014 to February 2015 and residential per capita water use, the basis for the tiers was developed. To effectively achieve a 25% aggregate statewide reduction in potable urban water use, an indoor standard of 55 gallons per person per day or 55 gallons per capita per day (GPCD) is targeted. Cities at or under the standard are required to conserve 10% in potable urban water use, cities at 55 - 110 GPCD are to conserve 20%, cities at 110 – 165 GPCD are to conserve 25%, and cities over 165 GPCD are to conserve 35%. The conservation standards account for conservation already achieved by cities who aimed to reduce water usage by 20% by 2020. The proposed conservation standards tiers include CII. Examples of CII are listed in the proposal, but the term will be defined in the regulations. The draft regulations assign the City of Long Beach to Tier II. This tier requires Long Beach to reduce 20% of potable urban water use effective June 1, 2015.

Draft Water Conservation Regulations are expected to be published by April 17, 2015 and once adopted, will be in addition to the regulations adopted on March 27, 2015 and described in the chart above.

The Department of Water Resources (DWR). The City anticipates DWR will release guidelines for the turf replacement program in the spring of 2015. The Department will also work with the State Water Resources Control Board to define eligibility criteria for underserved communities statewide.

Energy Commission (Commission). The Commission is in the early stages of defining standards for appliances that qualify for the rebate program. Efficiency standards for water appliances are to be in effect beginning January 1, 2017. The Commission is currently working on implementing the WET program.

If you have questions or comments, please contact Diana Tang, Manager of Government Affairs at (562) 570-6506.

cc: Mayor and Members of the City Council
Charles Parkin, City Attorney
Laura Doud, City Auditor
Tom Modica, Assistant City Manager
Arturo Sanchez, Deputy City Manager
Amy Bodek, Director of Development Services
George Chapjian, Director of Parks, Recreation and Marine
Ara Maloyan, Director of Public Works
Diana Tang, Manager of Government Affairs
Jyl Marden, Assistant to the City Manager
Mike Arnold and Associates



CITY OF LONG BEACH

OFFICE OF THE CITY MANAGER

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PATRICK H. WEST
CITY MANAGER

April 13, 2015

The Honorable Felicia Marcus
California State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

Re: Long Beach Comments – Mandatory Conservation Proposed Regulator Framework

Dear Chairwoman Marcus:

On behalf of the City of Long Beach, thank you for considering our comments as they apply to the Governor's April 1, 2015 Executive Order on water conservation regulations. Long Beach appreciates that measures must be taken to conserve water; however, we respectfully request local control be preserved during this process. We believe that our City is best equipped to determine how water conservation can be achieved in our jurisdiction.

In reviewing the State Water Resources Control Board's Mandatory Conservation: Proposed Regulatory Framework, Long Beach has the following comments to the section on Urban Water Suppliers:

I. Apportioning Water Supplier Reductions

Long Beach appreciates that the Proposed Regulatory Framework takes into consideration, water conservation achievements that have already been made by urban communities. The City urges the State Water Resources Control Board to continue considering the relative per capita water usage of each water suppliers' service area, and have those areas with high per capita use achieve proportionally greater reductions than those with low use. We are amenable to using September 2014 as a basis for placement of the 411 urban water suppliers into tiers that correspond to conservation standards. This methodology places Long Beach in Tier 2 of the Proposed Regulatory Framework to Achieve 25% Use Reduction Statewide, and would require Long Beach to reduce potable water usage by 20%.

II. New Reporting Requirements

The City understands that in order to measure reductions, monitoring and reporting must take place. While monthly reporting may be appropriate, Long Beach urges the State to refrain from requiring reports be submitted more frequently than monthly, as cities have limited resources to dedicate to such administrative tasks.

III. Compliance Assessment


The compliance assessment model presented seems reasonable. Long Beach supports comparing year over year data to determine compliance.

IV. Enforcement

The City of Long Beach appreciates informal enforcement, in the form of warning letters without monetary penalties, is being considered as a form of enforcement. We believe this type of enforcement will help build a relationship between the City and State as we move towards increased water conservation. While the City understands that monetary penalties may be necessary to enforce water conservation practices, we urge the State to consider a tiered penalty structure rather than a flat \$10,000 per day of non-compliance. Long Beach expects to make our best efforts to conserve water, and we expect that these conservation measures will be uncomfortable. However, to the extent that new technologies and infrastructure may be needed and currently unavailable, a fine of \$10,000 per day of non-compliance could hinder future conservation efforts by diverting scarce funding to paying fines rather than towards water conservation infrastructure. The City hopes that we will not be in a situation that will require this choice to be made, however we would like to urge the State to consider this potential situation as formal enforcement measures are developed.

Thank you for accepting comments on the Mandatory Conservation Proposed Regulatory Framework.

Sincerely,

A handwritten signature in black ink, appearing to read 'Patrick H. West', with a long horizontal line extending to the right.

Patrick H. West
City Manager

cc: The Honorable Ricardo Lara, State Senate, 33rd District
The Honorable Janet Nguyen, State Senate, 34th District
The Honorable Isadore Hall, III, State Senate, 35th District
The Honorable Anthony Rendon, State Assembly, 63rd District
The Honorable Mike Gipson, State Assembly, 64th District
The Honorable Patrick O'Donnell, State Assembly, 70th District
Thomas Howard, State Water Resources Control Board, Executive Director

Executive Department

State of California

EXECUTIVE ORDER B-29-15

WHEREAS on January 17, 2014, I proclaimed a State of Emergency to exist throughout the State of California due to severe drought conditions; and

WHEREAS on April 25, 2014, I proclaimed a Continued State of Emergency to exist throughout the State of California due to the ongoing drought; and

WHEREAS California's water supplies continue to be severely depleted despite a limited amount of rain and snowfall this winter, with record low snowpack in the Sierra Nevada mountains, decreased water levels in most of California's reservoirs, reduced flows in the state's rivers and shrinking supplies in underground water basins; and

WHEREAS the severe drought conditions continue to present urgent challenges including: drinking water shortages in communities across the state, diminished water for agricultural production, degraded habitat for many fish and wildlife species, increased wildfire risk, and the threat of saltwater contamination to fresh water supplies in the Sacramento-San Joaquin Bay Delta; and

WHEREAS a distinct possibility exists that the current drought will stretch into a fifth straight year in 2016 and beyond; and

WHEREAS new expedited actions are needed to reduce the harmful impacts from water shortages and other impacts of the drought; and

WHEREAS the magnitude of the severe drought conditions continues to present threats beyond the control of the services, personnel, equipment, and facilities of any single local government and require the combined forces of a mutual aid region or regions to combat; and

WHEREAS under the provisions of section 8558(b) of the Government Code, I find that conditions of extreme peril to the safety of persons and property continue to exist in California due to water shortage and drought conditions with which local authority is unable to cope; and

WHEREAS under the provisions of section 8571 of the California Government Code, I find that strict compliance with various statutes and regulations specified in this order would prevent, hinder, or delay the mitigation of the effects of the drought.

NOW, THEREFORE, I, EDMUND G. BROWN JR., Governor of the State of California, in accordance with the authority vested in me by the Constitution and statutes of the State of California, in particular Government Code sections 8567 and 8571 of the California Government Code, do hereby issue this Executive Order, effective immediately.

IT IS HEREBY ORDERED THAT:

1. The orders and provisions contained in my January 17, 2014 Proclamation, my April 25, 2014 Proclamation, and Executive Orders B-26-14 and B-28-14 remain in full force and effect except as modified herein.

SAVE WATER

2. The State Water Resources Control Board (Water Board) shall impose restrictions to achieve a statewide 25% reduction in potable urban water usage through February 28, 2016. These restrictions will require water suppliers to California's cities and towns to reduce usage as compared to the amount used in 2013. These restrictions should consider the relative per capita water usage of each water suppliers' service area, and require that those areas with high per capita use achieve proportionally greater reductions than those with low use. The California Public Utilities Commission is requested to take similar action with respect to investor-owned utilities providing water services.
3. The Department of Water Resources (the Department) shall lead a statewide initiative, in partnership with local agencies, to collectively replace 50 million square feet of lawns and ornamental turf with drought tolerant landscapes. The Department shall provide funding to allow for lawn replacement programs in underserved communities, which will complement local programs already underway across the state.
4. The California Energy Commission, jointly with the Department and the Water Board, shall implement a time-limited statewide appliance rebate program to provide monetary incentives for the replacement of inefficient household devices.
5. The Water Board shall impose restrictions to require that commercial, industrial, and institutional properties, such as campuses, golf courses, and cemeteries, immediately implement water efficiency measures to reduce potable water usage in an amount consistent with the reduction targets mandated by Directive 2 of this Executive Order.
6. The Water Board shall prohibit irrigation with potable water of ornamental turf on public street medians.
7. The Water Board shall prohibit irrigation with potable water outside of newly constructed homes and buildings that is not delivered by drip or microspray systems.

8. The Water Board shall direct urban water suppliers to develop rate structures and other pricing mechanisms, including but not limited to surcharges, fees, and penalties, to maximize water conservation consistent with statewide water restrictions. The Water Board is directed to adopt emergency regulations, as it deems necessary, pursuant to Water Code section 1058.5 to implement this directive. The Water Board is further directed to work with state agencies and water suppliers to identify mechanisms that would encourage and facilitate the adoption of rate structures and other pricing mechanisms that promote water conservation. The California Public Utilities Commission is requested to take similar action with respect to investor-owned utilities providing water services.

INCREASE ENFORCEMENT AGAINST WATER WASTE

9. The Water Board shall require urban water suppliers to provide monthly information on water usage, conservation, and enforcement on a permanent basis.
10. The Water Board shall require frequent reporting of water diversion and use by water right holders, conduct inspections to determine whether illegal diversions or wasteful and unreasonable use of water are occurring, and bring enforcement actions against illegal diverters and those engaging in the wasteful and unreasonable use of water. Pursuant to Government Code sections 8570 and 8627, the Water Board is granted authority to inspect property or diversion facilities to ascertain compliance with water rights laws and regulations where there is cause to believe such laws and regulations have been violated. When access is not granted by a property owner, the Water Board may obtain an inspection warrant pursuant to the procedures set forth in Title 13 (commencing with section 1822.50) of Part 3 of the Code of Civil Procedure for the purposes of conducting an inspection pursuant to this directive.
11. The Department shall update the State Model Water Efficient Landscape Ordinance through expedited regulation. This updated Ordinance shall increase water efficiency standards for new and existing landscapes through more efficient irrigation systems, greywater usage, onsite storm water capture, and by limiting the portion of landscapes that can be covered in turf. It will also require reporting on the implementation and enforcement of local ordinances, with required reports due by December 31, 2015. The Department shall provide information on local compliance to the Water Board, which shall consider adopting regulations or taking appropriate enforcement actions to promote compliance. The Department shall provide technical assistance and give priority in grant funding to public agencies for actions necessary to comply with local ordinances.
12. Agricultural water suppliers that supply water to more than 25,000 acres shall include in their required 2015 Agricultural Water Management Plans a detailed drought management plan that describes the actions and measures the supplier will take to manage water demand during drought. The Department shall require those plans to include quantification of water supplies and demands for 2013, 2014, and 2015 to the extent data is available. The Department will provide technical assistance to water suppliers in preparing the plans.

13. Agricultural water suppliers that supply water to 10,000 to 25,000 acres of irrigated lands shall develop Agricultural Water Management Plans and submit the plans to the Department by July 1, 2016. These plans shall include a detailed drought management plan and quantification of water supplies and demands in 2013, 2014, and 2015, to the extent that data is available. The Department shall give priority in grant funding to agricultural water suppliers that supply water to 10,000 to 25,000 acres of land for development and implementation of Agricultural Water Management Plans.
14. The Department shall report to Water Board on the status of the Agricultural Water Management Plan submittals within one month of receipt of those reports.
15. Local water agencies in high and medium priority groundwater basins shall immediately implement all requirements of the California Statewide Groundwater Elevation Monitoring Program pursuant to Water Code section 10933. The Department shall refer noncompliant local water agencies within high and medium priority groundwater basins to the Water Board by December 31, 2015, which shall consider adopting regulations or taking appropriate enforcement to promote compliance.
16. The California Energy Commission shall adopt emergency regulations establishing standards that improve the efficiency of water appliances, including toilets, urinals, and faucets available for sale and installation in new and existing buildings.

INVEST IN NEW TECHNOLOGIES

17. The California Energy Commission, jointly with the Department and the Water Board, shall implement a Water Energy Technology (WET) program to deploy innovative water management technologies for businesses, residents, industries, and agriculture. This program will achieve water and energy savings and greenhouse gas reductions by accelerating use of cutting-edge technologies such as renewable energy-powered desalination, integrated on-site reuse systems, water-use monitoring software, irrigation system timing and precision technology, and on-farm precision technology.

STREAMLINE GOVERNMENT RESPONSE

18. The Office of Emergency Services and the Department of Housing and Community Development shall work jointly with counties to provide temporary assistance for persons moving from housing units due to a lack of potable water who are served by a private well or water utility with less than 15 connections, and where all reasonable attempts to find a potable water source have been exhausted.
19. State permitting agencies shall prioritize review and approval of water infrastructure projects and programs that increase local water supplies, including water recycling facilities, reservoir improvement projects, surface water treatment plants, desalination plants, stormwater capture, and greywater systems. Agencies shall report to the Governor's Office on applications that have been pending for longer than 90 days.

20. The Department shall take actions required to plan and, if necessary, implement Emergency Drought Salinity Barriers in coordination and consultation with the Water Board and the Department of Fish and Wildlife at locations within the Sacramento - San Joaquin delta estuary. These barriers will be designed to conserve water for use later in the year to meet state and federal Endangered Species Act requirements, preserve to the extent possible water quality in the Delta, and retain water supply for essential human health and safety uses in 2015 and in the future.
21. The Water Board and the Department of Fish and Wildlife shall immediately consider any necessary regulatory approvals for the purpose of installation of the Emergency Drought Salinity Barriers.
22. The Department shall immediately consider voluntary crop idling water transfer and water exchange proposals of one year or less in duration that are initiated by local public agencies and approved in 2015 by the Department subject to the criteria set forth in Water Code section 1810.
23. The Water Board will prioritize new and amended safe drinking water permits that enhance water supply and reliability for community water systems facing water shortages or that expand service connections to include existing residences facing water shortages. As the Department of Public Health's drinking water program was transferred to the Water Board, any reference to the Department of Public Health in any prior Proclamation or Executive Order listed in Paragraph 1 is deemed to refer to the Water Board.
24. The California Department of Forestry and Fire Protection shall launch a public information campaign to educate the public on actions they can take to help to prevent wildfires including the proper treatment of dead and dying trees. Pursuant to Government Code section 8645, \$1.2 million from the State Responsibility Area Fire Prevention Fund (Fund 3063) shall be allocated to the California Department of Forestry and Fire Protection to carry out this directive.
25. The Energy Commission shall expedite the processing of all applications or petitions for amendments to power plant certifications issued by the Energy Commission for the purpose of securing alternate water supply necessary for continued power plant operation. Title 20, section 1769 of the California Code of Regulations is hereby waived for any such petition, and the Energy Commission is authorized to create and implement an alternative process to consider such petitions. This process may delegate amendment approval authority, as appropriate, to the Energy Commission Executive Director. The Energy Commission shall give timely notice to all relevant local, regional, and state agencies of any petition subject to this directive, and shall post on its website any such petition.

26. For purposes of carrying out directives 2-9, 11, 16-17, 20-23, and 25, Division 13 (commencing with section 21000) of the Public Resources Code and regulations adopted pursuant to that Division are hereby suspended. This suspension applies to any actions taken by state agencies, and for actions taken by local agencies where the state agency with primary responsibility for implementing the directive concurs that local action is required, as well as for any necessary permits or approvals required to complete these actions. This suspension, and those specified in paragraph 9 of the January 17, 2014 Proclamation, paragraph 19 of the April 25, 2014 proclamation, and paragraph 4 of Executive Order B-26-14, shall remain in effect until May 31, 2016. Drought relief actions taken pursuant to these paragraphs that are started prior to May 31, 2016, but not completed, shall not be subject to Division 13 (commencing with section 21000) of the Public Resources Code for the time required to complete them.
27. For purposes of carrying out directives 20 and 21, section 13247 and Chapter 3 of Part 3 (commencing with section 85225) of the Water Code are suspended.
28. For actions called for in this proclamation in directive 20, the Department shall exercise any authority vested in the Central Valley Flood Protection Board, as codified in Water Code section 8521, et seq., that is necessary to enable these urgent actions to be taken more quickly than otherwise possible. The Director of the Department of Water Resources is specifically authorized, on behalf of the State of California, to request that the Secretary of the Army, on the recommendation of the Chief of Engineers of the Army Corps of Engineers, grant any permission required pursuant to section 14 of the Rivers and Harbors Act of 1899 and codified in section 48 of title 33 of the United States Code.
29. The Department is directed to enter into agreements with landowners for the purposes of planning and installation of the Emergency Drought Barriers in 2015 to the extent necessary to accommodate access to barrier locations, land-side and water-side construction, and materials staging in proximity to barrier locations. Where the Department is unable to reach an agreement with landowners, the Department may exercise the full authority of Government Code section 8572.
30. For purposes of this Executive Order, chapter 3.5 (commencing with section 11340) of part 1 of division 3 of the Government Code and chapter 5 (commencing with section 25400) of division 15 of the Public Resources Code are suspended for the development and adoption of regulations or guidelines needed to carry out the provisions in this Order. Any entity issuing regulations or guidelines pursuant to this directive shall conduct a public meeting on the regulations and guidelines prior to adopting them.

31. In order to ensure that equipment and services necessary for drought response can be procured quickly, the provisions of the Government Code and the Public Contract Code applicable to state contracts, including, but not limited to, advertising and competitive bidding requirements, are hereby suspended for directives 17, 20, and 24. Approval by the Department of Finance is required prior to the execution of any contract entered into pursuant to these directives.

This Executive Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

I FURTHER DIRECT that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given to this Order.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 1st day of April 2015.

EDMUND G. BROWN JR.
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State

