



City Council Staff Report

DATE: May 20, 2015

NEW BUSINESS

SUBJECT: REVISION OF MANDATORY WATER CONSERVATION MEASURES ASSOCIATED WITH A STAGE 2 WATER SHORTAGE ALERT PURSUANT TO DESERT WATER AGENCY'S WATER SHORTAGE CONTINGENCY PLAN

FROM: David H. Ready, City Manager

BY: Office of the City Manager

SUMMARY

Desert Water Agency (DWA) recently adopted revised mandatory water conservation measures associated with its Stage 2 Water Shortage Alert in accordance with its Water Shortage Contingency Plan. Among the revised mandatory measures are restrictions on the use of potable water to irrigate turf within street medians and within the dedicated right-of-way on either side of a public street, and limiting outdoor irrigation to alternate days (3 days per week). The purpose of this presentation is to review the new restrictions and identify the steps to be taken to ensure the City's compliance with the water conservation measures.

RECOMMENDATION:

Provide direction to staff as appropriate.

STAFF ANALYSIS:

The state of California is suffering an historic water crisis. While most communities suffering from severe water shortages are located in central or northern California, southern California relies in large part on State Water Project delivered through the California aqueduct from northern California, or from the Colorado River. More than 50% of California's daily water use (and as much as 80% or more) is used outdoors for lawns and outdoor landscaping.

On January 17, 2014, the Governor issued Executive Order B-26-14 declaring a State of Emergency to exist in California due to severe drought conditions. The January Proclamation noted the following facts:

ITEM NO. 5.D.

- California is experiencing record dry conditions, 2014 is likely the driest year on record;
- California's reservoirs, rainfall totals, and snowpack remain critically low;
- California's reservoir storage is at alarmingly low levels

The Governor called for a voluntary reduction of urban water use of 20% statewide; however, after a statewide survey, urban water use was shown to have increased 1% statewide in May 2014 as compared to the average use in May the prior three years. As a result, on April 25, 2014, the Governor issued Executive Order B-28-14 declaring a continued State of Emergency. In his Executive Order, the Governor ordered the following:

...all California residents should refrain from wasting water:

- a. Avoid using water to clean sidewalks, driveways, parking lots and other hardscapes.*
- b. Turn off fountains and other decorative water features unless recycled or grey water is available.*
- c. Limit vehicle washing at home by patronizing local carwashes that use recycled water.*
- d. Limit outdoor watering of lawns and landscaping to no more than two times a week.*

On July 14, 2014, the State Water Resources Control Board (SWRCB), acting in response to the Governor's April 25 action, adopted Resolution No. 2014-0038 implementing emergency regulations for statewide urban water conservation. These regulations went into effect on July 28, 2014. However, on December 22, 2014, in light of the continued lack of rain, Governor Brown issued Executive Order B-28-14, which extends the California Environmental Quality Act (CEQA) suspension through May 31, 2016, for Water Code section 13247 and certain activities identified in the January 2014 and April 2014 proclamations.

Prior Local Action

On August 5, 2014, DWA adopted Resolution No. 1011 declaring a Stage 2 Water Supply Shortage Alert, implementing mandatory restrictions on outdoor irrigation and other measures; among the new DWA implemented restrictions were:

- Prohibiting the washing of driveways, parking lots or other hard surfaced area, or building exteriors at any time;
- Limiting the irrigation of parks, golf courses and school grounds during nighttime hours only;
- Prohibiting lawn watering and landscape irrigation between 10:00 AM and 5:00 PM;
- Prohibiting running water for washing vehicles, and requiring shut-off nozzles and buckets for cleaning;

- Requiring restaurants to provide drinking water only on request; and
- Limiting irrigation at commercial nurseries during nighttime hours (12:00 AM to 6:00 AM)

At that time, in response to the restrictions imposed by DWA, the City established a Joint Commission Water Task Force to make recommendations regarding water conservation and landscape irrigation regulations. The Task Force developed and recommended the establishment of ordinances related to Water Conservation and Waste Water Prevention. As a result, on September 3, 2014, the City Council adopted Ordinance No. 1858 regarding Water Conservation and Water Waste Prevention, and Ordinance No. 1859 regarding Water Efficient Landscaping Regulations and Requirements. A copy of the September 3, 2014, staff report is included as **Attachment 1**. The City's regulations were similar to those adopted by DWA, with some noted differences; among the City's regulations were:

- Prohibiting lawn watering and landscape irrigation between 7:00 AM and 7:00 PM;
- Allows fountains and decorative water features using recirculated water;
- Allows cleaning of sidewalks, patios and similar areas with low pressure washers or recycled water;
- Requires all pools, all spas, and decorative water features (in excess of 1,000 cubic feet of water) be drained into the public sewer system rather than the storm drain system¹

Current Events

Despite these administrative efforts, drought conditions continued, and by March 3, 2015, snow water equivalents for the Northern, Central, and Southern Sierra regions were at 16%, 20%, and 21% of normal for that date, respectively. Additionally, most reservoirs are less than 60% full and January 2015 was one of the driest months ever recorded in California history. Moreover, many communities face the prospect of needing emergency drinking water supplies. Given these facts, the SWRCB on March 17, 2015, adopted Resolution No. 2015-0013 which extended and updated the emergency regulations, and on April 1, 2015, Governor Brown issued Executive Order B-29-15 (included as **Attachment 2**) requiring the SWRCB to impose restrictions to achieve a statewide 25% reduction in potable urban water usage through February 28, 2016, by taking into account the different levels of conservation already achieved by communities based upon their relative per capita water usage. The Governor's water conservation goal is equivalent to 1.3 million acre-feet of water over the next 9 months, or nearly as much water as is currently in Lake Oroville (the second largest reservoir in California).

¹ Since the allowance of pool discharge to the sewer, the salt content of the sewage into and out of the wastewater treatment plant (WWTP) has significantly increased, exceeding the maximum chloride limitation identified in the City's permit to operate the WWTP. Staff will be scheduling in the near future for City Council consideration of a revision to the Ordinance to discontinue the discharge of chlorinated pool water to the sewer system.

On April 7, 2015, the SWRCB released a draft framework for water conservation standards and regulations to implement consistent with Governor Brown's Executive Order, which included:

- Reductions in potable water use at commercial, industrial and institutional properties;
- Prohibition on using potable water for irrigation of ornamental turf in street medians; and
- Prohibition on using potable water for irrigation outside of new home construction without drip or microspray systems

A copy of the SWRCB's proposed regulatory framework is included as **Attachment 3**; urban water suppliers (i.e. DWA) were required to implement their own water conservation regulations necessary to achieve the reductions in potable urban water usage. As part of the regulatory framework, water conservation measures were proposed with a tiered-system, with higher conservation standards imposed for those urban water suppliers with a reported residential per capita (R-GPCD) water use higher than others, as shown here in **Table 1**:

R-GPCD Range (Sept 2014)	# of Suppliers within Range	Conservation Standard
Under 55	18	10%
55-110	126	20%
110-165	132	25%
Over 165	135	35%

Table 1

Subsequently, on May 6, 2015, the SWRCB adopted Resolution 2015-0032 (included as **Attachment 4**), with a final tiered-system of water conservation standards related to the average R-GPCD (July-Sept 2014) as shown here in **Table 2**:

R-GPCD	Conservation Standard
0-64	8%
65-79	12%
80-94	16%
95-109	20%
110-129	24%
130-169	28%
170-214	32%
215+	36%

Table 2

The R-GPCD reported by DWA is highly variable given the tourist based nature of our community. DWA has filed monthly reports to the SWRCB since June 2014 (R-GPCD values were not stated for June 2014 through August 2014), as shown in the following **Table 3:**

Reporting Month	Total Monthly Potable Water Production 2014/2015	Total Monthly Potable Water Production 2013	Units Served	Total Population Served	REPORTED Residential Gallons-per-
Jun-14	3,581.0	3,744.0	AF	60,600	
Jul-14	3,882.0	3,891.0	AF	60,600	
Aug-14	3,489.0	3,840.0	AF	60,600	
Sep-14	3,193.0	3,570.0	AF	62,028	378.45
Oct-14	2,827.0	2,806.0	AF	60,600	322.43
Nov-14	2,733.0	3,079.0	AF	62,103	315.39
Dec-14	2,106.0	2,209.0	AF	62,142	235
Jan-15	1,817.0	2,036.0	AF	62,142	233.4
Feb-15	1,875.0	1,904.0	AF	62,194	221
Mar-15	1,841.0	1,986.0	AF	62,140	202

Table 3

The average R-GPCD (June-Sept 2014) reported by DWA is 378.45 (based on the one monthly value reported for September 2014), which places DWA into the highest tier for water conservation standards imposed by the SWRCB (a 36% reduction). In anticipation of these standards, on April 21, 2015, DWA held a public hearing and adopted Resolution No. 1108 revising mandatory conservation measures identified for its Stage 2 Water Shortage Alert pursuant to DWA's Water Shortage Contingency Plan. A copy of DWA's Resolution No. 1108 is included as **Attachment 5**; among the new or revised water use restrictions imposed by DWA on all of its urban water customers are:

- Outdoor irrigation of commercial, industrial and institutional facilities shall be restricted to alternate days after 7:00 PM and before 7:00 AM according to a schedule determined by DWA; (alternatively, DWA may approve an alternative water use reduction plan that achieves reduction in water use equivalent to those expected from the standard restrictions)
- Outdoor residential irrigation shall be restricted to Mondays, Wednesdays, and Fridays, after 7:00 PM and before 7:00 AM
- The use of fountains or other decorative water features shall be prohibited unless necessary as habitat for aquatic pets
- The application of water to outdoor landscapes during and up to 48 hours after measurable rainfall shall be prohibited
- The use of potable water to irrigate turf within street medians, and turf within the dedicated right-of-way on either side of a public street, shall be prohibited

DWA's water conservation measures identified in Resolution No. 1108 were effective immediately upon adoption; therefore, it is important for the City Council to provide direction to staff on the steps to be taken to ensure compliance with the water use restrictions. **However, DWA's water conservation measures do not apply to outdoor landscape irrigation using recycled water (i.e. Demuth Park or Tahquitz Creek Golf Course).**

City of Palm Springs Water Consumption

The City obtains domestic (potable) water supply from 266 water meters, and obtains recycled water supply from 2 water meters (one for the Dinah Shore Drive median landscape irrigation, and one for the Wastewater Treatment Plant / Demuth Park). Consumption data provided by DWA over the last three years identifies an overall decrease in consumption, most notably with the irrigation controls installed as part of the Citywide Energy Management Project implemented by Opterra (formerly Chevron Energy Solutions). The City's water consumption data is shown in **Table 4** on the next page.

As shown on Table 4, from 2012 to 2013 the City's consumption of potable water increased from 416.0 Million gallons to 422.7 Million gallons, an increase of 6.7 Million gallons, or 1.6%. In reviewing water meter consumption data, 7.9 Million gallons of additional consumption was generated by an irrigation meter for the landscaping along the south side of Vista Chino adjacent to the Airport. This meter was included in the irrigation controls implemented by the Citywide Energy Management Project (by Opterra), and as a result the total consumption from the same irrigation meter decreased 6.3 Million gallons in 2014.

It should be noted that 2013 is the baseline year from which required water conservation reductions will be monitored by the SWRCB.

As shown on Table 4, from 2013 to 2014 the City's consumption of potable water **decreased** from 422.7 Million gallons to 395.3 Million gallons, a decrease of 27.4 Million gallons or 6.5%.

In tracking the most current water consumption data from January – March 2015, the data shows a continued decrease of consumption of 68.1 Million gallons in potable water use in 2015 vs. 75.6 Million gallons in 2014, **a decrease of 7.5 Million gallons, or 9.9%**. In comparing to the 2013 baseline year, the decrease of consumption is 3.8 Million gallons, or 5.3%.

In tracking the water consumption data from the 72 domestic (potable) water meters updated with irrigation controls by Opterra, (fully implemented in September 2014), staff identified the following facts in comparing Sept. to Dec. 2013 vs. 2014 (4 months of data): 2013 water consumption – 110.2 Million gallons; 2014 water consumption – 95.5 Million gallons, or **a decrease of 14.7 Million gallons or 13.4%** for that partial year of consumption data.

CITY OF PALM SPRINGS WATER CONSUMPTION IN GALLONS

Water Use	2012												Total
	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	
Recycled Water	8,857,068	9,065,760	8,780,024	11,052,448	12,618,012	17,207,740	17,272,068	16,378,956	18,522,724	11,346,412	21,099,584	11,605,220	163,806,016
Potable Water	23,139,380	21,359,140	22,113,872	29,571,432	37,429,920	44,951,808	51,433,976	48,976,796	40,436,132	32,790,824	34,568,072	29,252,784	416,024,136
Water Use	32,000,000	30,424,900	30,893,896	40,623,880	49,847,932	59,159,548	65,867,952	64,355,752	58,958,856	44,137,236	55,667,656	40,858,004	580,630,152
Recycled Water	7,048,404	11,816,156	10,136,896	11,758,560	15,328,016	17,026,724	15,954,092	17,414,188	13,707,100	11,337,436	21,138,480	13,188,736	165,854,788
Potable Water	26,135,120	22,490,864	23,315,908	30,366,556	44,730,400	48,225,804	46,212,188	45,227,820	40,354,600	35,455,672	32,344,268	27,789,696	422,658,896
Water Use	33,183,524	34,307,020	33,452,804	42,125,116	52,058,816	56,252,604	52,166,376	52,644,648	43,711,200	46,811,108	53,482,748	41,098,432	588,513,684
Recycled Water	13,746,744	13,018,192	12,861,860	11,572,308	17,671,500	18,304,308	19,493,628	22,573,892	12,401,840	20,563,268	16,971,372	11,151,932	190,330,844
Potable Water	30,174,320	25,581,600	19,818,260	27,857,764	37,063,400	45,572,648	47,695,472	43,704,144	36,447,796	30,763,744	26,712,576	23,917,300	395,309,024
Water Use	43,919,064	40,599,792	32,680,120	39,430,072	52,736,848	63,877,056	67,189,144	66,267,936	49,149,636	51,327,012	43,683,872	35,069,232	585,639,868
Recycled Water	8,818,172	8,072,416	9,044,068	0	0	0	0	0	0	0	0	0	25,934,656
Potable Water	27,789,696	20,681,452	19,656,692	0	0	0	0	0	0	0	0	0	68,127,840

Table 4

There are additional measures to be taken to comply with the new mandatory water use reduction standards. Staff has identified two general cases where water use restrictions must be implemented:

- Case 1: On-site outdoor landscape irrigation (i.e. parks and facilities)
- Case 2: Parkway and/or median turf irrigation

Case 1: On-Site Outdoor Landscape Irrigation

An example of Case 1 is Sunrise Park; as shown in **Figure 1**, Sunrise Park is approximately 35 acres of public recreation, baseball fields, and community facilities, with an estimated 20 acres of outdoor landscape and turf area.



Figure 1

The City is now currently required to limit outdoor watering within Sunrise Park to *alternate days after 7:00 PM and before 7:00 AM according to a schedule determined by DWA,* or staff can develop an *alternative water use reduction plan that achieves reduction in water use equivalent to those expected from the standard restrictions* to be approved by DWA. Immediately, staff has revised the irrigation controllers at all City parks and facilities to irrigation only on alternate days; however, staff is reasonably certain that this reduction in irrigation will be highly visible, with turf areas turning brown (at Sunrise Park this will have a very visible effect on the baseball fields).

An alternative plan may be prepared to achieve at least 36% reduction in potable water use where the irrigation to 40% (8 acres) of the outdoor landscape areas within Sunrise Park are shut off (and the turf allowed to brown), with the remaining 60% (12 acres) of the outdoor landscape areas (i.e. baseball fields) maintained with daily irrigation to ensure the health of the turf and landscaping does not suffer. One example, as shown in **Figure 2**, is to maintain irrigation to the two baseball fields (approximately 5.5 acres) and 6.5 acres of other outdoor recreation areas (shown with yellow shading).

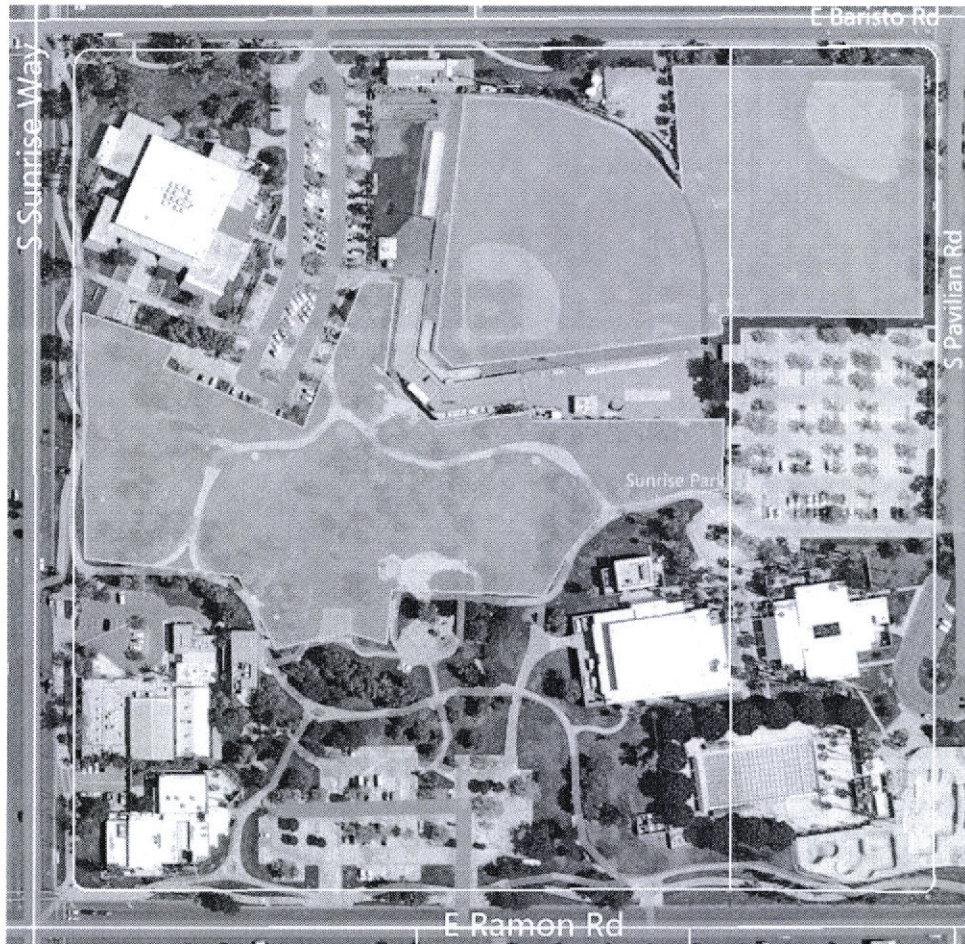


Figure 2

The challenge with any alternative plan where the irrigation to a certain portion of a park is shut off is the fact that, generally, these irrigation systems do not provide separate irrigation to the trees; the design of these irrigation systems relied on overspray from turf irrigation to provide irrigation to adjacent trees and landscaped areas. The method of irrigating the City's parks relied on over-watering, and flooding of outdoor landscaped areas, to ensure sufficient irrigation occurred to maintain the lush green visual of outdoor landscaped areas. Any alternative plan where sections of outdoor landscaped areas are isolated and irrigation eliminated will require the design and construction of a revised irrigation system to continue irrigating of trees and shrubs, with turf areas segregated. In the interim, staff may cap sprinklers to turf irrigation, however, sprinklers nearest to trees will remain open to ensure trees continue to receive irrigation. Ultimately, a completely redesigned irrigation system is required to implement permanent revisions to irrigation of outdoor landscaped areas, coupled with conversion of the turf areas to desert landscaping with drip irrigation.

Case 2: Parkway and/or Median Turf Irrigation

An example of Case 2 is the landscaped parkway and median along the north side of E. Palm Canyon Dr. extending from Cerritos Dr. to Farrell Dr., as shown in aerial view in **Figure 3**, and perspective view in **Figure 4**:



Figure 3



Figure 4

DWA's regulations are clear – *use of potable water to irrigate turf within street medians, and turf within the dedicated right-of-way on either side of a public street, shall be prohibited.* Staff has immediately shut off all irrigation controllers to turf within street medians and parkways, which will cause these turf areas to brown, and will require the City to plan for conversion of these turf areas with desert landscaping and drip irrigation. However, as with the challenge described in Case 1, there is no separate irrigation to the palm trees shown in Figure 4, therefore, staff will be required to immediately retrofit the irrigation system and maintain overspray of the palm trees by the nearest sprinklers, until such time as the entire irrigation system can be revised.

Another example related to Case 2 is along Ramon Road adjacent to the Airport, as shown in **Figure 5** and **Figure 6**:

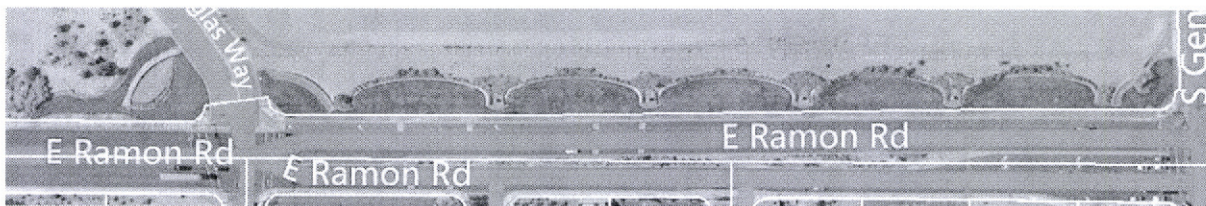


Figure 5

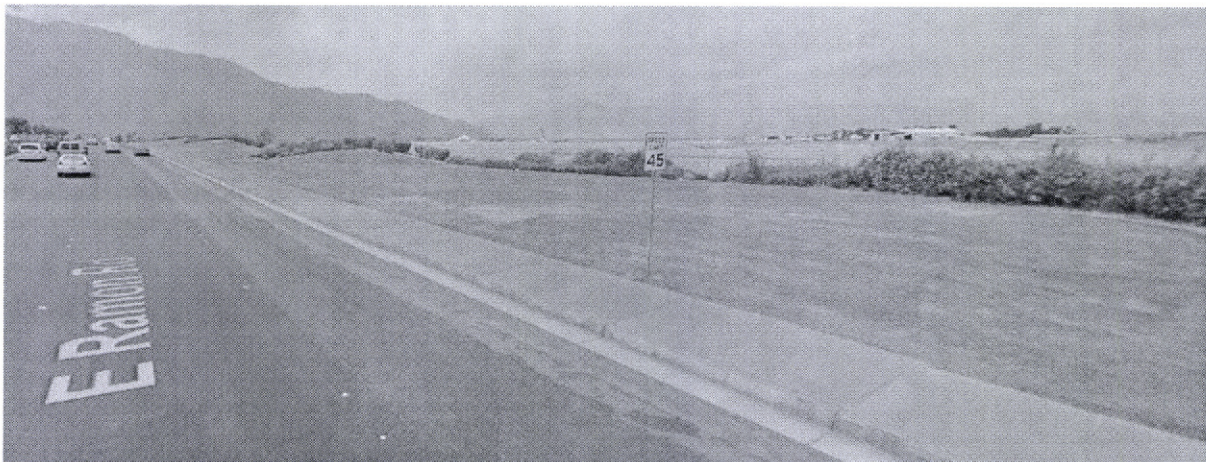


Figure 6

In the aerial view of the landscaped area along Ramon Road adjacent to the Airport shown in **Figure 5**, the public right-of-way line is effectively at the back of sidewalk (shown as a white line), with the outdoor turf landscaped area behind the sidewalk considered on-site on Airport property, rather than within the *dedicated right-of-way on either side of a public street* where DWA's prohibition on turf irrigation would apply. Therefore, irrigating this turf area would fall under the restrictions imposed on Case 1, for on-site parks and City facilities, and staff has implemented reductions in irrigating these areas to alternate days. It is important to acknowledge two points: 1) reducing irrigation of turf (particularly as we enter the summer months) will cause it to brown; and

2) the public perception of irrigating certain outdoor turf areas near public streets may be that the City is not complying with the water conservation standards, in that the turf visibly seen by the public from the street appears to be within the *dedicated right-of-way on either side of a public street* where such standards would apply.

Revision to City Code

With DWA's adoption of revised mandatory conservation measures identified for its Stage 2 Water Shortage Alert, those measures now implement additional restrictions which are not part of the City's Water Conservation and Water Waste Prevention Ordinance adopted in September 2014. If the City is to be consistent with DWA's regulations in its application of water conservation measures, it will be necessary to direct staff to prepare appropriate amendments to Chapter 11.06 of the Palm Springs Municipal Code.

ENVIRONMENTAL IMPACT:

Pursuant to the Executive Order issued by the Governor of the state of California on April 25, 2014, (as extended by Executive Order B-28-14), the Governor ordered that:

For several actions called for in this proclamation, environmental review required by the California Environmental Quality Act is suspended to allow these actions to take place as quickly as possible. Specifically, for actions taken by state agencies pursuant to directives 2, 3, 6-10, 13, 15, and 17, for all actions taken pursuant to directive 12 when the Office of Planning and Research concurs that local action is required, and for all necessary permits needed to implement these respective actions, Division 13 (commencing with section 21000) of the Public Resources Code and regulations adopted pursuant to that Division are hereby suspended. The entities implementing these directives will maintain on their websites a list of the activities or approvals for which these provisions are suspended. This suspension and that provided in paragraph 9 of the January 17, 2014 Proclamation will expire on December 31, 2014, except that actions started prior to that date shall not be subject to Division 13 for the time required to complete them.

Therefore, although actions taken to implement water conservation measures may be considered a Project as defined by Section 15378 of CEQA, pursuant to Section 15269(c) of the CEQA Guidelines, CEQA has been suspended in this case to allow local action to be taken to comply with the emergency regulations adopted by the state of California.

FISCAL IMPACT:

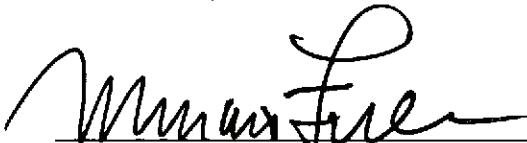
Compliance with the water conservation standards will result in cost savings to the City through reduced potable water consumption; however, in anticipation of the need to address the reduced or eliminated irrigation to turf and other outdoor landscaped areas (and the blighted condition caused by dead turf or landscape vegetation), there are significant cost implications to the City. As an example, the City recently awarded a construction contract for the landscape conversion of the Tahquitz Canyon Way median (Sunrise Way to El Cielo Road), with an area of approximately 1.3 acres, at a cost of \$1,287,865 (\$1 Million per acre). Since the Tahquitz Canyon Way landscape median conversion included additional improvements, such as decorative paver crosswalks, staff suggests the \$1 Million per acre cost is likely the higher range of potential costs, and recommends an estimate of \$500,000 per acre for budgeting purposes.

As noted in the example of Case 1 at Sunrise Park, it may be necessary to convert 8 acres of outdoor landscaped areas from turf and vegetation to desert landscaping with drip irrigation, which itself may have a cost of \$4 Million. There is no budget currently available or anticipated in the near future for turf landscape conversion of all the City's parks and facilities, or the various street medians and parkways; budget may need to be appropriated from General Fund reserves or from the Measure J Capital Fund through a re-prioritization of previously approved capital projects.

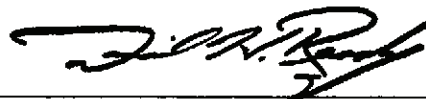
SUBMITTED:

Prepared by:

Approved by:



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Assistant City Manager/City Engineer



David H. Ready, Esq., Ph.D.
City Manager

Attachments:

1. September 3, 2014, staff report
2. Executive Order B-29-15
3. SWRCB's proposed regulatory framework
4. SWRCB Resolution 2015-0032
5. DWA Resolution No. 1108

ATTACHMENT 1



CITY COUNCIL STAFF REPORT

DATE: September 3, 2014 LEGISLATIVE

SUBJECT: PROPOSED ORDINANCES RELATING TO WATER EFFICIENT LANDSCAPING, WATER CONSERVATION AND WATER WASTE PREVENTION AND CEQA EXEMPTION DETERMINATION.

FROM: David H. Ready, City Manager

BY: Department of Building & Safety and Office of Sustainability

SUMMARY

The City Council will consider the introduction of two ordinances as follows: (i) adding Palm Springs Municipal Code Chapter 11.06 regarding water conservation and water waste prevention; and (ii) amending and restating existing regulations for water efficient landscaping, Palm Springs Municipal Code Chapter 8.60.

RECOMMENDATION:

1. Waive the reading of the text in its entirety and introduce on first reading by title only Ordinance No. _____, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADDING CHAPTER 11.06 TO, AND AMENDING SECTION 14.24.020, 14.24.030 AND 14.24.060 OF, THE PALM SPRINGS MUNICIPAL CODE, REGARDING WATER CONSERVATION AND WATER WASTE PREVENTION."
2. Waive the reading of the text in its entirety and introduce on first reading by title only Ordinance No. _____, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING AND RESTATING CHAPTER 8.60 OF THE PALM SPRINGS MUNICIPAL CODE RELATING TO WATER EFFICIENT LANDSCAPING REGULATIONS AND REQUIREMENTS."
3. Direct Staff to meet with representatives from Desert Water Agency to determine procedural and administrative processes for implementation of Chapter 8.60 Water Efficient Landscaping Regulations.

BACKGROUND AND STAFF ANALYSIS:

In 2014, the California Governor issued a Proclamation and Executive Order declaring a State of Emergency to exist in California due to severe drought conditions, noting that the state is experiencing record dry conditions, with 2014 projected to become the driest year on record.

Additionally, the California State Water Resources Control Board adopted Resolution No. 2014-0038 adopting emergency regulations for statewide urban water conservation. The California State Water Resources Control Board Resolution pertains to water agencies in the state.

On, August 5, 2014, the Desert Water Agency Board of Directors, adopted Resolution No. 1011 declaring a Stage 2 Water Supply Shortage Alert, pursuant to Desert Water Agency Ordinance No. 45, implementing mandatory restrictions on outdoor irrigation and other measures as follows:

1. Washing driveways, parking lots or other hard surfaced area, or building exteriors at any time, except to alleviate immediate fire hazards is prohibited;
2. Parks, golf courses and school grounds are to be irrigated during nighttime hours only between sunset and sunrise;
3. Lawn watering and landscape irrigation is prohibited between the hours of 10:00 a.m. to 5:00 p.m.;
4. Running water shall not be used for washing privately owned vehicles. A bucket may be used for the washing of vehicles and only hoses equipped with shut-off nozzles may be used for rinsing;
5. Restaurants are requested not to provide drinking water to patrons except by request;
6. Commercial nurseries shall use water only during the hours from midnight to 6:00 a.m. Irrigation of propagation beds and watering of livestock is permitted as necessary during any hours.
7. Golf courses using recycled water are exempted from these restrictions.

A City Joint Commission Water Task Force was established (comprised of members from the Planning Commission, Architectural Advisory Commission, Parks and Recreation Commission, Sustainability Commission and the Palm Springs Neighborhood Involvement Committee) to make recommendations regarding water conservation and landscape irrigation as they pertain to current ordinances and

potential new policy initiatives. An "Ordinance Subcommittee" was formed to research and review two draft ordinances. One related to general water conservation and the second related to irrigation and landscaping. The subcommittee met several times throughout the months of July and August to discuss the proposed ordinances.

Water Conservation and Waste Water Prevention.

With the exception of miscellaneous provisions in the Palm Springs Municipal Code regarding water in City streets, roadways or gutters, and the Water Efficient Landscaping Chapter (outlined later in this report), the City has no regulations for water conservation and waste water prevention. Absent provisions in the Code, the City has no authority to issue citations for violations pertaining to water restrictions, such as those recently imposed by Desert Water Agency.

The proposed ordinance declares water waste as unlawful in the City of Palm Springs. Water waste is defined as the use of potable water not in compliance with the water conservation requirements established by the ordinance. Water waste is subject to abatement by the City as other public nuisances, or subject to administrative citation or other legal remedies.

Specifically, the proposed ordinance:

1. Prohibits the watering of landscaped areas from 7:00 a.m. to 7:00 p.m., with exceptions for drip irrigation systems, manual watering with containers and/or hose with shutoff nozzle, maintenance of irrigation systems, and newly planted materials, including annual reseeding of turf and seasonal color.¹
2. Prohibits over-watering of lawn or landscaped areas.
3. Prohibits watering during rainfall.
4. Requires landscape irrigation system maintenance.
5. Requires fountains and decorative water features recirculate.
6. Allows cleaning of sidewalks, patios and similar areas with low pressure washers or recycled water.
7. Allows vehicle washing with use of a bucket and quick-release shutoff nozzle.

¹ The Subcommittee discussed and recommended to continue to allow an exemption to the irrigation regulations for annual reseeding of turf and seasonal color. As a policy decision the City Council may be inclined to discuss removing the exemption, which in-turn will make annual reseeding difficult if not impracticable.

8. Requires eating and drinking establishments provide drinking water only by request.
9. Requires hotels and motels to provide customer options for the cleaning and changing of linens and towels.
10. Prohibits water leaks from any exterior or interior pipe.
11. Requires all pools, all spas, and decorative water features (in excess of 1,000 cubic feet of water) be drained into the public sewer system rather than the storm drain system (pending further review by Viola regarding treatment requirements)

The proposed ordinance acknowledges that stricter requirements may be in effect by the Desert Water Agency and/or the State or Federal Government in response to an emergency water supply shortage.

Enforcement of the water conservation and waste water prevention ordinance would be the responsibility of the Code Enforcement Division. Currently, Staff has added a category to the City's Go Request app, *Palm Springs @ Your Service*, which provides for the general public to report water waste. The City's Code Enforcement will notify property owners of possible violations and could also refer the matter to the Desert Water Agency as appropriate.

According to a recent story in the *Los Angeles Times* (attached for reference) public education and notification is the key to a successful water conservation program, as opposed to monetary fines. Since the fall of 2013, the City of Los Angeles has received more than 1,100 reports of water violations. Of those, more than 850 repeat offenders received warnings. None had to be fined for continued violations.

Water Efficient Landscaping.

In 1990, the State enacted AB 325 the Water Conservation in Landscape Act, which required the California Department of Water Resources to develop and adopt a Model Water Efficient Landscape Ordinance by January 1, 1992. The premise was that landscape design, installation and maintenance can and should be water efficient. Additionally, the legislation required all local agencies adopt a water efficient landscape ordinance, considering local climate, geological or topographical conditions, or water availability. If local agencies did not adopt a local ordinance the state model ordinance was in effect for the local agency. As such, Ordinance No. 1463 was adopted, establishing Chapter 8.60 of the Palm Springs Municipal Code, to address specific landscape, irrigation and water conservation measures.

In 2006, the State enacted AB 1881, the Water Conservation in Landscape Act, which required the California Department of Water Resources to update the Model Water Efficient Landscape Ordinance. Similar to the previous legislation, if a local agency did not adopt a local ordinance, the updated State Model Water Efficient Landscape Ordinance would apply within the jurisdiction of the local agency. The City did adopt the State Model Ordinance.

At the time of the original state mandate, cities and water districts seemed to agree the water districts should take the lead, since cities do not necessarily have staff expertise to conduct detailed water evaluations. Currently, the City requires all applicable projects submit plans to the Desert Water Agency for review and compliance. Desert Water Agency reviews and approves the plans, which are filed with the final development plans.

Additionally, City Staff refers landscape plans to the AAC to ensure that irrigation plans meet water efficiency landscape requirements. The City charges a fee for architectural review of projects, which includes the review of the landscape plan, in its existing fee structure.

New Ordinance Provisions.

City Staff and the Task Force Ordinance Subcommittee recommend the City Council introduce the proposed ordinance amending and restating Chapter 8.60 of the Palm Springs Municipal Code, and to adopt local regulations that exceed the requirements of the Model Water Efficient Landscape Ordinance as follows:

Currently the state model ordinance requires commercial properties to comply with the state water efficient landscape standards. The City's previous ordinance exempted multi-family; the proposed ordinance requires multi-family to comply and now aligns with the state model ordinance.

Applicability. Single-family dwellings with landscape area over 5,000 square feet must comply with the water efficient landscape standards. Single-family dwellings with landscape area between 2,500 and 5,000 square feet shall comply with provisions for landscape and irrigation drawing requirements of the proposed code. Currently, the state model code does not pertain to single-family dwellings less than 5,000 square feet, and the City's existing code exempts all single-family dwellings. All local ordinances and the state model ordinance require adherence to the efficient landscape standards when over 5,000 square feet.

A single-family subdivision, when front and/or side yards are landscaped by the developer or contractor must meet the City's proposed water efficient landscape standards. Currently, the state model ordinance and the City's existing code do not provide such a requirement.

Exemptions. In the proposed code only ecological restoration projects and single family projects less than 2,500 square feet are exempt. The state model code and the City's existing code exempts many more sites including historic sites, cemeteries, single-family homes, multi-family, reclaimed water users, botanical gardens, as well as ecological restoration projects.

Plan Check and Review Fees. The state model ordinance does not require Plan Check; however, the current Palm Springs ordinance requires with plan check through Desert Water Agency only if the project is: (a) Over 5,000 square feet; or (b) goes through the City's Lawn Buy Back Program and the Planning Department calls for a Minor Architectural Application. Appropriate fees are required for these reviews.

Turf Allowance. The proposed ordinance is in line with the state model ordinance in that it does not allow turf on slopes greater than 25%. However, the City's proposed ordinance is more restrictive in that it restricts turf coverage by property type. The existing City ordinance has no restrictions on turf.

Planting Requirements. The state did not provide a plant list or require such of new applicants. The current City code also makes no reference to a plant list. The proposed ordinance establishes that an approved plant list be established and adhered to. Moreover, the City's Lawn Buy Back Program requires drawings and a list of plants in the application process.

Irrigation Standards. In the proposed ordinance, irrigation must be designed for hydro-zones and irrigation standards are set for landscape adjacent to hardscape. Subterranean irrigation is required within 36 inches of hardscape. The state model ordinance only requires subterranean irrigation on plantings within 24 inches of hardscape. Smart controllers and master valves are also required on projects that are over 5,000 square feet. The state model ordinance and the City's current ordinance have no such requirements.

Evapotranspiration Rate. The proposed ordinance is more stringent than the state model ordinance and equal to that of other Coachella Valley cities when determining required evapotranspiration factors (ETAF). The ETAF for the state model ordinance is only 0.7, where the local ETAF pursuant to the proposed ordinance is 0.5. This makes the proposed ordinance and local ordinances more water efficient than the state model ordinance.

Overall the City's proposed ordinance is more stringent than the existing City Ordinance, other local ordinances, CVAG's Model Water Efficient Landscape Ordinance and the State Model Ordinance.

Building Codes and Standards.

Current California Building Codes, adopted by the City of Palm Springs, require certain water conservation devices for residential and commercial building.

Effective January 1, 2014, House Bill 4007 (2009) specifically addresses compliance measures related to residential and commercial properties constructed prior to 1994. The new regulations require that all plumbing fixtures, not meeting the current low flow code requirements, must be replaced with compliant fixtures when obtaining a permit for improvements or alterations to any commercial or residential property.

The City's Building and Safety Department is enforcing the new regulations. Any commercial or residential property build prior to 1994, that require a permit for any alteration, must replace all fixtures and/or provide documentation that all plumbing fixtures meet the low flow code requirements.

Furthermore, the new law requires that on or before January 1, 2017, all noncompliant plumbing fixtures in ANY single-family residential real property shall be replaced by the property owner with water-conserving plumbing fixtures. The State did not provide any inspection or enforcement provisions in the legislation.

The law further requires that on or before January 1, 2019, all noncompliant plumbing fixtures in multi-family residential real property and commercial real property shall be replaced by the property owner with water-conserving plumbing fixtures. The State did not provide any inspection or enforcement provisions in the legislation.

Generally, the industry does not provide any plumbing fixture which exceeds the standards contained in the California Building Code, with the exception of waterless toilets. As such, given the provisions enacted in the California Building Codes with respect to plumbing fixtures, Staff has no further recommended actions for Building Codes and Standards.

Notwithstanding the above, the City Council may wish to consider directing Staff to prepare an ordinance that further requires additional water saving devices as appropriate. For example, other regulations might include mandates such as: requiring all eating and drinking establishments to replace dishwashing systems with water-efficient dishwashing machines; require lodging facilities and laundry businesses to replace laundry equipment with water efficient washing machines; require all existing conveyor car wash systems to install and operate only water recycling systems, etc.

FISCAL IMPACT:

The Water Efficient Landscaping provisions in the code administered by the Planning Department will be offset by the appropriate fees charged. Such fees are being

reviewed and Staff will present recommendations for any modifications required to carry out the provisions of the Ordinance.

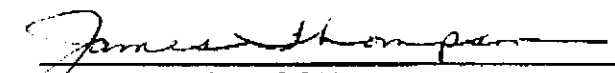
The Water Conservation and Water Waste Prevention regulations will be enforced by the City's Code Enforcement Division. Additional resources may be required depending upon our overall experience with requests for service and enforcement. Moreover, educational and outreach initiatives will be provided with resources through the Office of Sustainability.



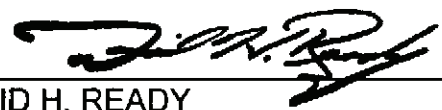
JAMES ZICARO
Director of Building and Safety



MICHELE MICIAN
Sustainability Manager



JAMES THOMPSON
Chief of Staff/City Clerk



DAVID H. READY
City Manager

Attachments:

- Proposed Water Conservation Ordinance
- Proposed Landscape Ordinance
- PSMC Chapter 8.60
- DWA Resolution No. 1011
- DWA Ordinance No. 45
- Los Angeles Times Story

ATTACHMENT 2

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

ATTACHMENT 3

MANDATORY CONSERVATION PROPOSED REGULATORY FRAMEWORK

The Governor's [April 1, 2015 Executive Order](#) directs the State Water Board to impose restrictions to achieve an aggregate statewide 25% reduction in potable urban water use through February 2016. The Executive Order stipulates the 25% reduction in water use as compared to 2013, but proposes flexibility in how to achieve this reduction in recognition of the level of conservation already achieved by many communities around the State.

Input Requested: The State Water Board is interested in receiving feedback on these regulatory concepts as well as other ideas on how a 25% reduction could be structured. Please submit comments and ideas on the proposed framework by email to Jessica Bean at Jessica.Bean@waterboards.ca.gov by April 13, 2015.

Urban Water Suppliers

- I. **Apportioning Water Supplier Reductions:** The Executive Order directs the State Water Board to consider 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. Reporting on residential per capita (R-GPCD) water use began in October 2014 for the September 2014 reporting period. Residential per capita water use is highest during the summer months when outdoor irrigation demand is high. Reported summertime water use is also generally more consistent because the weather varies less from year to year than during the winter. Accordingly, September 2014 R-GPCD serves as a reasonable basis for placement of the 411 urban water suppliers into five categories as follows:

R-GPCD Range (Sept 2014)	# of Suppliers within Range	Conservation Standard
Under 55	18	10%
55-110	126	20%
110-165	132	25%
Over 165	135	35%

The proposed breakdown of water suppliers into R-GPCD groupings with corresponding conservation standards is intended to equitably and effectively achieve a 25% aggregate statewide reduction in potable urban water use.

II. New Reporting Requirements: To assess compliance by commercial, industrial, and institutional (CII) sector customers and actions taken by urban water suppliers to reduce CII sector use, the following additional reporting requirements are proposed:

- Monthly commercial sector use;
- Monthly large landscape commercial customer use (e.g. golf courses, amusement parks);
- Monthly industrial sector use;
- Monthly institutional sector use; and
- Monthly large landscape institutional customer use (e.g. cemeteries, college campuses).

Reporting requirements under the existing Emergency Regulation that took effect March 27, 2015, will remain in effect.

III. Compliance Assessment: To determine if urban water suppliers are meeting required use reductions, water production data, as reported by each individual water supplier for the months of June 2015 through February 2016, will be compared to the same period(s) in 2013. Given the severity of the current drought, the State Water Board will assess suppliers' compliance for both monthly and cumulative water usage reductions.

IV. Enforcement:

The State Water Board has a variety of tools available to enforce its regulations:

- Informal enforcement, such as warning letters, can provide a clear reminder to water suppliers of the requirements and an alert that their conservation programs are not achieving the desired water savings. Warning letters would generally not be accompanied by monetary penalties
- Formal enforcement actions include Cease and Desist Orders (CDO) to stop non-compliant activity. These Orders generally contain a description of the specific actions, and a timeline for implementing them, required for the recipient to return to compliance. Non-compliance with a CDO during a drought emergency, such as the current one, can result in a complaint to assess Administrative Civil Liabilities of up to \$10,000 for each day of non-compliance.

In addition to these existing tools, other tools may be needed to ensure compliance for the short duration of the regulations. These tools would be developed through the emergency rulemaking and would remain in effect for its duration (270 days unless extended by the State Water Board). The tools include:

- Informational Orders that would enable the Board to require specific data and other facts on conservation practices if conservation targets are not being met.
- Conservation Orders that would go into effect immediately upon receipt, as opposed to CDOs that can only be issued and enforced after the State Water Board holds an evidentiary hearing, if one is requested. A conservation order would describe the specific actions required for the recipient to come into compliance with the requirements of the regulation. Issuance of a conservation order would be subject to reconsideration by the Board and violation of a conservation order would not be subject to the enhanced penalties associated with violation of a CDO during a drought emergency.

The tools will be used alone, or in combination, to address the following compliance problems:

- Failure of water suppliers to file reports as required by the regulation;
- Failure to implement prohibitions and restrictions as described in the Governor's Executive Orders and the emergency regulation; and
- Failure of water suppliers to meet the assigned water use reduction target.

Small Water Suppliers

There are over 2,600 small water suppliers (those with fewer than 3,000 service connections) that provide water to over 1.5 million Californians. Under the existing Emergency Regulation that took effect March 27, 2015, these suppliers are required to either limit outdoor irrigation to no more than two times per week or to institute measures that achieve a 20% reduction in use. Small suppliers are not required to report their water production to the Board, but are expected to have the data available on request. Small suppliers will need to contribute to achieving the statewide 25% potable urban water use reduction called for in the Executive Order.

- I. **Apportioning Water Supplier Reductions:** Up until the release of the April 1, 2015 Executive Order, all water suppliers were being asked to achieve a voluntary 20% reduction in water use. The existing emergency regulation assigns responsibilities to both larger urban water suppliers and small suppliers to restrict irrigation to achieve the 20% reduction target. Under this proposal, small water suppliers would be required to achieve a 25% water savings as compared to their 2013 water use under the new regulation.

- II. **Reporting Requirements:** To date, small water suppliers have not been required to report on their water use or conservation measures. Small suppliers would now be directed to provide a one-time report to the State Water Board, 180 days after the effective date of the new emergency regulation, addressing at a minimum:
- Potable water production from June-November 2013 and June-November 2015;
 - The number of days per week outdoor irrigation is allowed and other restrictions implemented to achieve a 25% water use reduction; and
 - Specific restrictions on CII sector use.
- III. **Compliance Assessment:** Compliance would be based upon whether small suppliers submitted the required data and met the 25% water use reduction requirement.
- IV. **Enforcement:** The State Water Board may use any of the tools discussed above, as appropriate.

Additional Prohibitions and End-User Requirements

The State Water Board's existing emergency regulation includes a number of water use prohibitions that apply to all Californians and end-user restrictions that apply to specific water users, such as restaurants and hotels. These existing restrictions will remain in effect, and consistent with the Executive Order, the following new prohibitions will be put in place:

- The use of potable water outside of newly constructed homes and buildings that is not delivered by drip or micro-spray systems will be prohibited; and
- The use of potable water to irrigate ornamental turf on public street medians will be prohibited.

The State Water Board will also consider adding requirements for large landscape users (e.g. commercial, industrial, institutional) not served by either type of water supplier discussed above to achieve the 25% statewide reduction in potable urban water use.

ATTACHMENT 4

**STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2015-0032**

**TO ADOPT AN EMERGENCY REGULATION FOR
STATEWIDE URBAN WATER CONSERVATION**

WHEREAS:

1. On April 25, 2014, Governor Edmund G. Brown Jr. issued an executive order (April 2014 Proclamation) to strengthen the State's ability to manage water and habitat effectively in drought conditions, and called on all Californians to redouble their efforts to conserve water. The April 2014 Proclamation finds that the continuous severe drought conditions present urgent challenges across the State, including water shortages in communities and for agricultural production, increased wildfires, degraded habitat for fish and wildlife, threat of saltwater contamination, and additional water scarcity, if drought conditions continue into 2015. The April 2014 Proclamation also suspends the environmental review required by the California Environmental Quality Act to allow the emergency regulation and other actions to take place as quickly as possible;
2. The April 2014 Proclamation refers to the Governor's Proclamation No. 1-17-2014, issued on January 17, 2014, declaring a drought State of Emergency to exist in California due to severe drought conditions (January 2014 Proclamation). The January 2014 Proclamation finds that dry conditions and lack of precipitation present urgent problems to drinking water supplies and cultivation of crops, which put farmers' long-term investments at risk. The conditions also threaten the survival of animals and plants that rely on California's rivers, including many species in danger of extinction. The January 2014 Proclamation also calls on all Californians to reduce their water usage by 20 percent;
3. On December 22, 2014, in light of the continued lack of rain, Governor Brown issued Executive Order B-28-14, which extends the California Environmental Quality Act suspension through May 31, 2016 for Water Code section 13247 and certain activities identified in the January 2014 and April 2014 proclamations;
4. On April 1, 2015, Governor Brown issued a new Executive Order that directs the State Water Board to impose restrictions on urban water suppliers to achieve a statewide 25 percent reduction in potable urban usage through February 2016; require commercial, industrial, and institutional users to implement water efficiency measures; prohibit irrigation with potable water of ornamental turf in public street medians; and prohibit irrigation with potable water outside newly constructed homes and buildings that is not delivered by drip or microspray systems; along with other directives;
5. Water Code section 1058.5 grants the State Water Board the authority to adopt emergency regulations in certain drought years in order to: "prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion, of water, to promote water recycling or water conservation, to require curtailment of diversions when water is not available under the diverter's priority of right, or in furtherance of any of the foregoing, to require reporting of diversion or use or the preparation of monitoring reports";

6. On July 15, 2014, the State Water Board adopted an emergency regulation to support water conservation (Resolution No. 2014-0038), and that regulation became effective July 28, 2014 upon approval by the Office of Administrative Law (OAL);
7. On March 17, 2015, the State Water Board amended and readopted the emergency regulation to support water conservation (Resolution No. 2015-0013), which became effective March 27, 2015 upon approval by OAL;
8. The current emergency regulation has supported Californians' water conservation efforts, with over 125 billion gallons saved from August 2014 through March 2015; however, statewide water use is only nine percent less than the same months in 2013. Achieving a 25 percent reduction in use will require even greater conservation efforts across the state. In particular, many communities must dramatically reduce their outdoor water use;
9. In many areas, 50 percent or more of daily water use is for lawns and outdoor landscaping. Outdoor water use is generally discretionary, and many irrigated landscapes will survive while receiving a decreased amount of water;
10. Although urban water suppliers have placed restrictions on outdoor watering, the State Water Board continues to receive reports of excessive outdoor water use;
11. Water conservation is the easiest, most efficient and most cost-effective way to quickly reduce water demand and extend supplies into the next year, providing flexibility for all California communities. Water saved this summer is water available later in the season or next year, reducing the likelihood of even more severe water shortages should the drought continue;
12. Education and enforcement against water waste is a key tool in conservation programs. When conservation becomes a social norm in a community, the need for enforcement is reduced or eliminated;
13. Public information and awareness is critical to achieving conservation goals, and the Save Our Water campaign, run jointly by the Department of Water Resources (DWR) and the Association of California Water Agencies, is an excellent resource for conservation information and messaging that is integral to effective drought response (<http://saveourwater.com>);
14. Many California communities are facing social and economic hardship due to this drought. The rest of us can make adjustments to our water use, including landscape choices that conserve even more water;
15. The California Constitution declares, at article X, section 2, that the water resources of the state must be put to beneficial use in a manner that is reasonable and not wasteful. Relevant to the current drought conditions, the California Supreme Court has clarified that "what may be a reasonable beneficial use, where water is present in excess of all needs, would not be a reasonable beneficial use in an area of great scarcity and great need. What is a beneficial use at one time may, because of changed conditions, become a waste of water at a later time." (*Tulare Dist. v. Lindsay Strathmore Dist.* (1935) 3 Cal.2d 489, 567.) In support of water conservation, the legislature has, through Water Code section 1011, deemed reductions in water use due to conservation as equivalent

to reasonable beneficial use of that water. Accordingly, this regulation is in furtherance of article X, section 2 during this drought emergency. This temporary emergency regulation is not to be used in any future administrative or judicial proceedings as evidence or finding of waste and unreasonable use of any individual water user or water supplier subject to this regulation, and are not to affect or otherwise limit any rights to water conserved under applicable law, including without limitation, water conserved consistent with Water Code section 1011;

16. Directive two of the Governor's April 1, 2015 Executive Order directs the State Water Board to consider the relative per capita usage of each urban water supplier's service area and require that areas with high per capita use achieve proportionally greater reductions than areas with low per capita use;
17. On April 7, 2015, the State Water Board issued a draft framework proposing increasing levels of required water reduction based upon residential per capita per day use (R-GPCD) for the proposed regulation, and solicited public comments. The Board received over 300 comments on the framework, primarily relating to the levels of required water reduction;
18. On April 18, the State Water Board issued draft regulatory language for public comment based on the April 7 framework and the comments received. The draft regulatory language reflected careful consideration of all comments including those directed at the levels of required reduction. Again, the Board received close to 300 comments;
19. On April 28, 2015, the State Water Board issued a final version of draft regulatory language for comment, followed on April 29 by a formal public notice that it would consider the adoption of the emergency regulation at the Board's regularly-scheduled May 5 and 6, 2015 public meeting, in accordance with applicable State laws and regulations. The State Water Board also distributed for public review and comment a Finding of Emergency that complies with State laws and regulations;
20. As discussed above, the State Water Board is adopting the emergency regulation because of the continuing emergency drought conditions, the need for prompt action to prevent the waste and unreasonable use of water and to promote conservation, and the specific actions called for in the Governor's April 1, 2015 Executive Order; and
21. Nothing in the regulation or in the enforcement provisions of the regulation precludes a local agency from exercising its authority to adopt more stringent conservation measures. Moreover, the Water Code does not impose a mandatory penalty for violations of the regulation adopted by this resolution, and local agencies retain the enforcement discretion in enforcing the regulation to the extent authorized. Local agencies are encouraged to develop their own progressive enforcement practices to promote conservation.

THEREFORE BE IT RESOLVED THAT:

1. The State Water Board adopts California Code of Regulations, title 23, section 866 and re-adopts sections 863, 864, and 865, as appended to this resolution as an emergency regulation;

2. State Water Board staff will submit the regulation to OAL for final approval;
3. If, during the approval process, State Water Board staff, the State Water Board, or OAL determines that minor corrections to the language of the regulation or supporting documentation are needed for clarity or consistency, the State Water Board Executive Director or the Executive Director's designee may make such changes;
4. This regulation shall remain in effect for 270 days after filing with the Secretary of State unless the State Water Board determines that it is no longer necessary due to changed conditions, or unless the State Water Board renews the regulation due to continued drought conditions as described in Water Code section 1058.5;
5. The State Water Board directs staff to provide the Board with monthly updates on the implementation of the emergency regulation and its effect. These updates shall include information regarding the progress of the Building Standards Commission, Department of Housing and Community Development, and other state agencies in the adoption and implementation of emergency regulations or other requirements that implement increased outdoor irrigation efficiency for new construction. These regulations and other requirements will extend existing efficiency standards for new construction to the outdoor environment and ensure that California's new homes are constructed to meet the growing demand with the most efficient standards;
6. The State Water Board directs staff to condition funding upon compliance with the emergency regulation, to the extent feasible;
7. The State Water Board directs staff to work with DWR and the Save Our Water campaign to disseminate information regarding the emergency regulation; and
8. The State Water Board directs staff to update the electronic reporting portal to include data fields for the new reporting required by the emergency regulation.

THEREFORE BE IT FURTHER RESOLVED THAT:

9. The State Water Board shall work with DWR, the Public Utilities Commission, and other agencies to support urban water suppliers' actions to implement rates and pricing structures to incent additional conservation, as required by directive eight in the Governor's April 1, 2015 Executive Order. The Fourth District Court of Appeal's recent Decision in *Capistrano Taxpayer Association Inc. v. City of San Juan Capistrano* (G048969) does not foreclose the use of conservation-oriented rate structures;
10. The State Water Board calls upon water suppliers to:
 - a. ensure that adequate personnel and financial resources exist to implement conservation requirements not only for 2015, but also for another year of drought should it occur. Water suppliers that face budget shortfalls due to reduced sales should take immediate steps to raise necessary revenues in a way that actively promotes continued conservation;
 - b. expedite implementation of new conservation programs by minimizing internal review periods and utilizing emergency authorities, as appropriate;

- c. consider the relative water use and conservation practices of their customers and target those with higher water use to achieve proportionally greater reductions than those with low use;
 - d. minimize financial impacts to low-income customers;
 - e. preserve safe indoor water supplies in areas with very low R-GPCD and where necessary to protect public health and safety;
 - f. promote low-water use methods of preserving appropriate defensible space in fire-prone areas, consistent with local fire district requirements;
 - g. educate customers on the preservation of trees;
 - h. promote on-site reuse of water; and
 - i. promptly notify staff of the supplier's need for an alternate method of compliance pursuant to resolved paragraph 16.
11. The State Water Board calls upon all businesses within California's travel and tourism sectors to inform visitors of California's dire drought situation and actions visitors should take to conserve water;
 12. The State Water Board commends wholesale water agencies that have set aggressive conservation targets for their retail water suppliers;
 13. The State Water Board commends water suppliers that have made investments to boost drought-resistant supplies, such as advanced treated recycled water and desalination. Those investments help to make communities more resilient in the face of drought;
 14. The State Water Board commends the many water suppliers that have already surpassed their 20x2020 conservation targets. Long-term conservation efforts are critical to maintaining economic and social well-being, especially in light of the impacts of climate change on California's hydrology;
 15. During this drought emergency, heightened conservation that extends urban resilience is necessary. The State Water Board's focus is primarily on immediate reductions in outdoor water use. Some short-term conservation efforts, such as landscape conversions and installation of efficient appliances, will also support long-term conservation objectives, and are encouraged wherever possible;
 16. The State Water Board recognizes that some commercial and industrial customers, while accounting for a significant portion of total use in a service area, have already taken steps to significantly reduce their water consumption and cannot further reduce their use without substantial impacts. However, the Board also recognizes that in many areas there are significant opportunities for reductions in water use by industries and commercial enterprises that have yet to take action, especially those with large areas of non-functional turf. The Board directs staff to respond promptly upon receipt of any request for alternate enforceable methods of compliance. If the supplier believes the conservation standard is unachievable due to firm commercial and industrial water use

and residential use reductions that would affect public health and safety, it should provide any supporting information or documentation for an alternate method of compliance; and

17. Some water suppliers have called for further refinement of the tiers to reflect a range of factors that contribute to water use, including but not limited to temperature, lot size, and income. Others have called for an approach that provides greater recognition for early investments in conservation, the development of local, drought resistant water supplies, and health and safety needs. These suggestions and many others are important considerations in the development of a more comprehensive, and long term, conservation framework. The State Water Board directs staff to work with stakeholders on a thoughtful process to devise options for extended and expanded emergency regulations should the drought continue into 2016.

CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on May 5, 2015.

AYE: Chair Felicia Marcus
Vice Chair Frances Spivy-Weber
Board Member Tam M. Doduc
Board Member Steven Moore
Board Member Dorene D'Adamo

NAY: None

ABSENT: None

ABSTAIN: None



Jeanine Townsend
Clerk to the Board

ADOPTED TEXT OF EMERGENCY REGULATION

Article 22.5. Drought Emergency Water Conservation.

Sec. 863. Findings of Drought Emergency.

(a) The State Water Resources Control Board finds as follows:

(1) On January 17, 2014, the Governor issued a proclamation of a state of emergency under the California Emergency Services Act based on drought conditions;

(2) On April 25, 2014, the Governor issued a proclamation of a continued state of emergency under the California Emergency Services Act based on continued drought conditions;

(3) On April 1, 2015, the Governor issued an Executive Order that, in part, directs the State Board to impose restrictions on water suppliers to achieve a statewide 25 percent reduction in potable urban usage through February, 2016; require commercial, industrial, and institutional users to implement water efficiency measures; prohibit irrigation with potable water of ornamental turf in public street medians; and prohibit irrigation with potable water outside newly constructed homes and buildings that is not delivered by drip or microspray systems;

(4) The drought conditions that formed the basis of the Governor's emergency proclamations continue to exist;

(5) The present year is critically dry and has been immediately preceded by two or more consecutive below normal, dry, or critically dry years; and

(6) The drought conditions will likely continue for the foreseeable future and additional action by both the State Water Resources Control Board and local water suppliers will likely be necessary to prevent waste and unreasonable use of water and to further promote conservation.

Authority: Section 1058.5, Water Code.

References: Cal. Const., Art., X § 2; Sections 102, 104, 105, and 275, Water Code; *Light v. State Water Resources Control Board* (2014) 226 Cal.App.4th 1463.

Sec. 864. End-User Requirements in Promotion of Water Conservation.

(a) To prevent the waste and unreasonable use of water and to promote water conservation, each of the following actions is prohibited, except where necessary to address an immediate health and safety need or to comply with a term or condition in a permit issued by a state or federal agency:

(1) The application of potable water to outdoor landscapes in a manner that causes runoff such that water flows onto adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots, or structures;

(2) The use of a hose that dispenses potable water to wash a motor vehicle, except where the hose is fitted with a shut-off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use;

(3) The application of potable water to driveways and sidewalks; and

(4) The use of potable water in a fountain or other decorative water feature, except where the water is part of a recirculating system;

- (5) The application of potable water to outdoor landscapes during and within 48 hours after measurable rainfall;
 - (6) The serving of drinking water other than upon request in eating or drinking establishments, including but not limited to restaurants, hotels, cafes, cafeterias, bars, or other public places where food or drink are served and/or purchased;
 - (7) The irrigation with potable water of ornamental turf on public street medians; and
 - (8) The irrigation with potable water of landscapes outside of newly constructed homes and buildings in a manner inconsistent with regulations or other requirements established by the California Building Standards Commission and the Department of Housing and Community Development.
- (b) To promote water conservation, operators of hotels and motels shall provide guests with the option of choosing not to have towels and linens laundered daily. The hotel or motel shall prominently display notice of this option in each guestroom using clear and easily understood language.
- (c) Immediately upon this subdivision taking effect, all commercial, industrial and institutional properties that use a water supply, any portion of which is from a source other than a water supplier subject to section 865, shall either:
- (1) Limit outdoor irrigation of ornamental landscapes or turf with potable water to no more than two days per week; or
 - (2) Reduce potable water usage supplied by sources other than a water supplier by 25 percent for the months of June 2015 through February 2016 as compared to the amount used from those sources for the same months in 2013.
- (d) The taking of any action prohibited in subdivision (a) or the failure to take any action required in subdivisions (b) or (c), is an infraction, punishable by a fine of up to five hundred dollars (\$500) for each day in which the violation occurs. The fine for the infraction is in addition to, and does not supersede or limit, any other remedies, civil or criminal.

Authority: Section 1058.5, Water Code.

References: Cal. Const., Art., X § 2; Sections 102, 104, 105, 275, 350, and 10617, Water Code; *Light v. State Water Resources Control Board* (2014) 226 Cal.App.4th 1463.

Sec. 865. Mandatory Actions by Water Suppliers.

- (a) As used in this section:
 - (1) “Distributor of a public water supply” has the same meaning as under section 350 of the Water Code, except it does not refer to such distributors when they are functioning solely in a wholesale capacity, but does apply to distributors when they are functioning in a retail capacity.
 - (2) “R-GPCD” means residential gallons per capita per day.

- (3) "Total potable water production" means all potable water that enters into a water supplier's distribution system, excluding water placed into storage and not withdrawn for use during the reporting period, or water exported outside the supplier's service area.
- (4) "Urban water supplier" means a supplier that meets the definition set forth in Water Code section 10617, except it does not refer to suppliers when they are functioning solely in a wholesale capacity, but does apply to suppliers when they are functioning in a retail capacity.

(b) In furtherance of the promotion of water conservation each urban water supplier shall:

(1) Provide prompt notice to a customer whenever the supplier obtains information that indicates that a leak may exist within the end-user's exclusive control.

(2) Prepare and submit to the State Water Resources Control Board by the 15th of each month a monitoring report on forms provided by the Board. The monitoring report shall include the amount of potable water the urban water supplier produced, including water provided by a wholesaler, in the preceding calendar month and shall compare that amount to the amount produced in the same calendar month in 2013. The monitoring report shall specify the population served by the urban water supplier, the percentage of water produced that is used for the residential sector, descriptive statistics on water conservation compliance and enforcement efforts, and the number of days that outdoor irrigation is allowed, and monthly commercial, industrial and institutional sector use. The monitoring report shall also estimate the gallons of water per person per day used by the residential customers it serves.

(c)(1) To prevent the waste and unreasonable use of water and to meet the requirements of the Governor's April 1, 2015 Executive Order, each urban water supplier shall reduce its total potable water production by the percentage identified as its conservation standard in this subdivision. Each urban water supplier's conservation standard considers its service area's relative per capita water usage.

(2) Each urban water supplier whose source of supply does not include groundwater or water imported from outside the hydrologic region in which the water supplier is located, and that has a minimum of four years' reserved supply available may, submit to the Executive Director for approval a request that, in lieu of the reduction that would otherwise be required under paragraphs (3) through (10), the urban water supplier shall reduce its total potable water production by 4 percent for each month as compared to the amount used in the same month in 2013. Any such request shall be accompanied by information showing that the supplier's sources of supply do not include groundwater or water imported from outside the hydrologic region and that the supplier has a minimum of four years' reserved supply available.

(3) Each urban water supplier whose average July-September 2014 R-GPCD was less than 65 shall reduce its total potable water production by 8 percent for each month as compared to the amount used in the same month in 2013.

(4) Each urban water supplier whose average July-September 2014 R-GPCD was 65 or more but less than 80 shall reduce its total potable water production by 12 percent for each month as compared to the amount used in the same month in 2013.

(5) Each urban water supplier whose average July-September 2014 R-GPCD was 80 or more but less than 95 shall reduce its total potable water production by 16 percent for each month as compared to the amount used in the same month in 2013.

(6) Each urban water supplier whose average July-September 2014 R-GPCD was 95 or more but less than 110 shall reduce its total potable water production by 20 percent for each month as compared to the amount used in the same month in 2013.

(7) Each urban water supplier whose average July-September 2014 R-GPCD was 110 or more but less than 130 shall reduce its total potable water production by 24 percent for each month as compared to the amount used in the same month in 2013.

(8) Each urban water supplier whose average July-September 2014 R-GPCD was 130 or more but less than 170 shall reduce its total potable water production by 28 percent for each month as compared to the amount used in the same month in 2013.

(9) Each urban water supplier whose average July-September 2014 R-GPCD was 170 or more but less than 215 shall reduce its total potable water production by 32 percent for each month as compared to the amount used in the same month in 2013.

(10) Each urban water supplier whose average July-September 2014 R-GPCD was 215 or more shall reduce its total potable water production by 36 percent for each month as compared to the amount used in the same month in 2013.

(d)(1) Beginning June 1, 2015, each urban water supplier shall comply with the conservation standard specified in subdivision (c).

(2) Compliance with the requirements of this subdivision shall be measured monthly and assessed on a cumulative basis.

(e)(1) Each urban water supplier that provides potable water for commercial agricultural use meeting the definition of Government Code section 51201, subdivision (b), may subtract the amount of water provided for commercial agricultural use from its potable water production total, provided that any urban water supplier that subtracts any water provided for commercial agricultural use from its total potable water production shall:

(A) Impose reductions determined locally appropriate by the urban water supplier, after considering the applicable urban water supplier conservation standard specified in subdivision (c), for commercial agricultural users meeting the definition of Government Code section 51201, subdivision (b) served by the supplier;

(B) Report its total potable water production pursuant to subdivision (b)(2) of this section, the total amount of water supplied for commercial agricultural use, and shall identify the reduction imposed on its commercial agricultural users and each recipient of potable water for commercial agricultural use;

(C) Certify that the agricultural uses it serves meet the definition of Government Code section 51201, subdivision (b); and

(D) Comply with the Agricultural Water Management Plan requirement of paragraph 12 of the April 1, 2015 Executive Order for all commercial agricultural water served by the supplier that is subtracted from its total potable water production.

(2) Submitting any information pursuant to subdivision (e)(1)(B) or (C) of this section that is found to be materially false by the board is a violation of this regulation, punishable by civil liability of up to five hundred dollars (\$500) for each day in which the violation occurs. Every day that the error goes uncorrected constitutes a separate violation. Civil liability for the violation is in addition to, and does not supersede or limit, any other remedies, civil or criminal.

(f)(1) To prevent waste and unreasonable use of water and to promote water conservation, each distributor of a public water supply that is not an urban water supplier shall take one or more of the following actions:

(A) Limit outdoor irrigation of ornamental landscapes or turf with potable water by the persons it serves to no more than two days per week; or

(B) Reduce by 25 percent reduction its total potable water production relative to the amount produced in 2013.

(2) Each distributor of a public water supply that is not an urban water supplier shall submit a report by December 15, 2015, on a form provided by the Board, that either confirms compliance with subdivision (f)(1)(A) or identifies total potable water production, by month, from June through November, 2015, and total potable water production, by month, for June through November 2013.

Authority: Section 1058.5, Water Code.

References: Cal. Const., Art., X § 2; Sections 102, 104, 105, 275, 350, 1846, 10617 and 10632, Water Code; *Light v. State Water Resources Control Board* (2014) 226 Cal.App.4th 1463.

Sec. 866. Additional Conservation Tools.

(a)(1) To prevent the waste and unreasonable use of water and to promote conservation, when a water supplier does not meet its conservation standard required by section 865 the Executive Director, or the Executive Director's designee, may issue conservation orders requiring additional actions by the supplier to come into compliance with its conservation standard.

(2) A decision or order issued under this article by the board or an officer or employee of the board is subject to reconsideration under article 2 (commencing with section 1122) of chapter 4 of part 1 of division 2 of the California Water Code.

(b) The Executive Director, or his designee, may issue an informational order requiring water suppliers, or commercial, industrial or institutional properties that receive any portion of their supply from a source other than a water supplier subject to section 865, to submit additional information relating to water production, water use or water conservation. The failure to provide the information requested within 30 days or any additional time extension granted is a violation subject to civil liability of up to \$500 per day for each day the violation continues pursuant to Water Code section 1846.

Authority: Section 1058.5, Water Code.

References: Cal. Const., Art., X § 2; Sections 100, 102, 104, 105, 174, 186, 187, 275, 350, 1051, 1122, 1123, 1825, 1846, 10617 and 10632, Water Code; *Light v. State Water Resources Control Board* (2014) 226 Cal.App.4th 1463.

ATTACHMENT 5

RESOLUTION NO. 1108

**RESOLUTION OF THE BOARD OF DIRECTORS OF
DESERT WATER AGENCY REVISING THE
MANDATORY CONSERVATION MEASURES
PRESCRIBED FOR A STAGE 2 WATER SHORTAGE
ALERT PURSUANT TO THE AGENCY'S WATER
SHORTAGE CONTINGENCY PLAN**

WHEREAS, the State of California is experiencing a severe drought and all water purveyors in California, including Desert Water Agency, are required by law to implement measures to alleviate drought impacts; and

WHEREAS, by Ordinance No. 45 the Board of Directors of Desert Water Agency has adopted a Water Shortage Contingency Plan which provides for certain measures to be implemented upon the declaration of levels of water shortage as set forth in the ordinance; and

WHEREAS, Ordinance No. 45 includes a Stage 2 Water Shortage Alert with mandatory restrictions on outdoor irrigation; and

WHEREAS, this Board of Directors has declared a Stage 2 Water Shortage Alert; and

WHEREAS, Section 4 of Ordinance No. 45 allows this Board to revise the mandatory conservation measures prescribed for a State 2 Water Shortage Alert upon a showing of need for such modification or amendment; and

WHEREAS, the California State Water Resources Control Board adopted revised emergency water use regulations on March 17, 2015, which include certain mandatory water conservation measures applicable to Desert Water Agency that are not currently addressed in Ordinance No. 45 for a Stage 2 Water Shortage Alert; and

WHEREAS, the action taken by the State Water Resources Control Board has created a need for Desert Water Agency to revise the water conservation measures prescribed for a Stage 2 Water Shortage Alert in order to remain compliant with the new regulations; and

WHEREAS, the Governor of the State of California issued an Executive Order on April 1, 2015 mandating a statewide 25% water use reduction and Desert Water Agency will revise Ordinance 45 following the adoption of the State Water Resources Control Board's implementation plan to comply with the mandate; and

WHEREAS, this Board of Directors conducted a public hearing on April 21, 2015, with notice of such hearing published in a newspaper of general circulation within the Agency and also posted on the Agency's website, to consider revisions to the mandatory water conservation measures prescribed for a Stage 2 Water Shortage Alert in light of the mandatory actions required by the emergency drought regulations adopted by the State Water Resources Control Board, and has considered the comments provided at the public hearing;

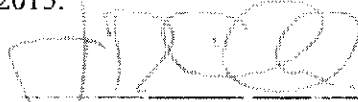
NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of Desert Water Agency does hereby revise the mandatory water conservation measures prescribed in Section 3.2 of Ordinance No. 45 for a Stage 2 Water Shortage Alert to replace those listed therein with the following:

- (1) Washing of hardscape, such as driveways, parking lots and walkways, shall be prohibited.
- (2) The use of running water to wash vehicles shall be prohibited. The use of buckets and stop nozzles on hoses, for rinsing only, shall be permitted.
- (3) Restaurants may provide water to customers only upon request.
- (4) Outdoor irrigation of commercial, industrial and institutional facilities shall be restricted to alternate days after 7:00 p.m. and before 7:00 a.m., according to a schedule determined by Agency staff following consultation with the affected customer. A commercial, industrial or institutional customer may implement an alternative water use reduction plan that achieves reductions in water use equivalent to those expected from the restrictions prescribed herein, if approved in advance by the General Manager.
- (5) Outdoor residential irrigation shall be restricted to Mondays, Wednesdays and Fridays, after 7:00 p.m. and before 7:00 a.m.
- (6) The application of potable water to outdoor landscapes in a manner that causes runoff such that water flows onto adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots, or structures shall be prohibited.
- (7) The use of fountains or other decorative water features shall be prohibited unless necessary as habitat for aquatic pets, in which case recirculating water shall be permitted.
- (8) The application of water to outdoor landscapes during and up to 48 hours after measurable rainfall shall be prohibited.
- (9) Operators of hotels and motels shall provide guests with the option of choosing not to have towels and linens laundered daily. Each hotel or motel shall prominently display notice of this option in each bathroom, using clear and easily understood language.
- (10) The use of potable water outside of newly constructed homes and buildings that is not delivered by drip or micro-spray systems shall be prohibited.
- (11) The use of potable water to irrigate turf within street medians, and turf within the dedicated right of way on either side of a public street, shall be prohibited.
- (12) Agency customers are encouraged not to empty and refill swimming pools from June 1 through October 31 unless necessary to address a health or safety emergency.
- (13) Agency customers shall be notified by Desert Water Agency in the event that the customer has a leak that is within the customer's control.

BE IT FURTHER RESOLVED that this Board will take further subsequent action to amend or replace Ordinance No. 45 as appropriate to implement such further water conservation measures as may be required by the State Water Resources Control Board in response to current drought conditions statewide.

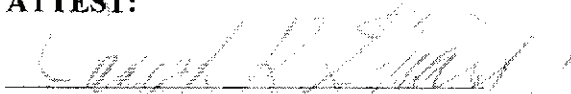
BE IT FURTHER RESOLVED that this resolution shall become effective immediately upon adoption.

ADOPTED this 21st day of April, 2015.



James Cioffi, Vice President
Board of Directors

ATTEST:



Joseph K. Stuart, Secretary-Treasurer
Board of Directors