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Special Report: California Drought Response, Executive Order and Regulatory Updates

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Executive Order

On April 1, 2015, Governor Edmund G. Brown Jr. announced an Executive Order in response to severe and persistent drought conditions throughout California.(1) The Executive Order mandates a 25% reduction in water usage throughout the state.(2) Implementation of the order will go into effect after the State Water Resources Control Board (the Water Board) approves regulations that will likely take effect by June 1, 2015.(3)

The Executive Order outlines four priorities: i) save water; ii) increase enforcement against water waste; iii) invest in new technologies; and iv) streamline government response. In order to save water, it includes directives for programs conducted by various government agencies. The Department of Water Resources will lead a statewide initiative to replace 50 million square feet of lawns with drought tolerant landscapes. Additionally, the California Energy Commission, the Department of Water Resources, and the Water Board will implement a statewide appliance rebate program to replace inefficient devices.(4) On April 8, 2015, the Energy Commission approved water efficiency standards for appliances sold after January 1, 2016, which would apply to faucets, toilets, and urinals and could potentially save 10.3 billion gallons of water in the first year.(5)

The Executive Order gives water districts the authority to initiate pricing mechanisms to encourage water conservation. Additionally, water departments have the ability to enforce water restrictions through fines.(6)

While the Executive Order focuses on urban water conservation, enforcement against water waste will also be applied to the agricultural sector, which is responsible for roughly three quarters of California's water use.(7) Despite comprising most of California's water usage, farmers idled about 500,000 acres due to the drought last year.(8) According to the Public Policy Institute of California (PPIC), agriculture lost \$2 billion and 17,000 full- and part-time jobs.(9) In order to sustain farming activities, some farmers have turned to pumping groundwater, which makes withdrawals from the water table at a rate faster than replenishment, eventually leading to

the damage of aqueducts and other infrastructure.(10) As part of the Executive Order, agricultural water suppliers that supply water to over 10,000 acres of irrigated land will be required to submit water management plans to the Department of Water Resources.(11)

The full Executive Order can be found at the following link:

http://gov.ca.gov/docs/4.1.15_Executive_Order.pdf

Background

Governor Brown's April 1, 2015 Executive Order announcement coincided with the release of record low snowpack data, recorded at 5% of average snowpack, or one quarter of the previously recorded low of 1979. To put the data into perspective, the current level of snowpack matches the May 1979 level, putting the state two months ahead of the previous drought record. Despite two recent California rainstorms, the state requires an entire year of above average precipitation to leave the drought behind.(12)

Preceding the April 1, 2015 Executive Order, Governor Brown issued an Emergency Drought Proclamation on January 17, 2014 in which he called on Californians to voluntarily reduce water usage by 20%.(13) On April 25, 2014, Governor Brown issued an Executive Order directing the State Water Board to adopt an emergency regulation.(14) On July 15, 2014, the Water Board approved an emergency regulation to increase outdoor water conservation.(15) Parts of this regulation included a ban on washing down driveways and sidewalks, excessive runoff when watering outdoor landscapes, and the use of a hose without a shut-off nozzle to wash cars.(16) Additionally, large and small urban water suppliers must impose restrictions on outdoor irrigation.(17)

On March 17, 2015, the Water Board adopted an expanded emergency regulation to address the impacts of the drought.(18) The July 2014 regulations still apply. New requirements include a prohibition of outdoor watering within 40 hours following measureable rainfall. Additionally, restaurants are prohibited from serving water to customers unless the customer requests it and hotels must offer their guests the option to not have their linens and towels laundered each day.(19) On April 3, 2015, the Water Board warned water rights holders to expect curtailments as a result of low snowpack, which will primarily impact agriculture.(20)

Governor Brown signed AB 91 and AB 92 on March 27, 2015.(21) The emergency drought bills allocate \$1.1 billion of funding to drought relief. Partisan debate over the measures took place in the State Legislature as some Republican members argued against the expansion of the role of government.(22)

Urban Water Conservation Measurements

Statewide reductions in water use are measured against a baseline of the aggregated water use for all 411 water districts in 2013.(23) On April 7, 2015, the data revealed that Californians collectively reduced water consumption by 2.8% in February, the lowest recorded conservation

rate since last July.(24) The water conservation rate for January 2015 was also low at 8%, compared to 22% in December 2014.(25) Warmer than average weather, population growth, and a rebound in tourism have been identified as possible explanations for recent water demands.(26)

Nevertheless, the overall water savings since June 2013 have amounted to a total of 148 billion gallons.(27) Conservation regulations require urban water suppliers to report the number of gallons of water per person per day used by their residential customers, or Residential Gallons per Capita Day (R-GPCD).(28) Supplier R-GPCD data and proposed regulatory targets to achieve 25% reductions can be found at the following link:

http://www.waterboards.ca.gov/waterrights/water_issues/programs/drought/docs/emergency_regulations/urban_water_supplier_tiers.pdf

In an April 9, 2015 briefing regarding the drought, Felicia Marcus, Chair of the State Water Resources Control Board called the current situation “the most serious challenge of our generation,” and possibly even the past three generations. She added that rural regions, the agricultural sector, and wildlife have borne the brunt of the drought’s negative impacts, while large urban areas have remained particularly unscathed.(29)

“We are all in it together. We all have to do a part. We ask everyone to do a part,” expressed Secretary John Laird of the California Natural Resources Agency. He recommended that Californians not divide themselves, especially along urban and agricultural interests, and emphasized that everyone participate equitably in water conservation efforts.(30)

A statewide conservation education program called “Save Our Water” provides information regarding ways to save water at the following website: <http://saveourwater.com/>.

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- (1) <http://gov.ca.gov/news.php?id=18910>
 - (2) http://gov.ca.gov/docs/4.1.15_Executive_Order.pdf
 - (3) <http://www.scpr.org/news/2015/04/02/50747/california-drought-restrictions-faq-what-the-gover/>
 - (4) http://gov.ca.gov/docs/4.1.15_Executive_Order.pdf
 - (5) <http://www.acwa.com/news/energy/energy-commission-approves-regulations-requiring-water-efficient-appliances>
 - (6) <http://www.scpr.org/news/2015/04/02/50747/california-drought-restrictions-faq-what-the-gover/>
 - (7) <http://touch.latimes.com/#section/-1/article/p2p-83191987/>
 - (8) Ibid
 - (9) http://www.ppic.org/content/pubs/report/R_415MDR.pdf
 - (10) Ibid

- (11) http://gov.ca.gov/docs/4.1.15_Executive_Order.pdf
- (12) Anderson, Michael. "How Bad is It?" *2015 Drought Four Years and Counting: Impacts and Actions*. 9 April 2015, Sacramento. <http://www.acwa.com/events/2015-drought-briefing---four-years-and-counting-impacts-and-actions>
- (13) http://gov.ca.gov/docs/4.1.15_Executive_Order.pdf
- (14) <http://ca.gov/drought/topstory/top-story-25.html>
- (15) http://www.waterboards.ca.gov/press_room/press_releases/2014/pr071514.pdf
- (16) http://www.waterboards.ca.gov/waterrights/water_issues/programs/drought/emergency_regulations_waterconservation.shtml
- (17) http://www.waterboards.ca.gov/press_room/press_releases/2014/pr071514.pdf
- (18) http://www.waterboards.ca.gov/waterrights/water_issues/programs/drought/emergency_regulations_waterconservation.shtml
- (19) Ibid
- (20) <http://www.acwa.com/news/water-supply-challenges/state-board-warns-imminent-water-right-curtailments-across-state>
- (21) <http://gov.ca.gov/news.php?id=18906>
- (22) <http://www.sacbee.com/news/politics-government/capitol-alert/article16329215.html>
- (23) http://www.waterboards.ca.gov/waterrights/water_issues/programs/drought/docs/fs_conservation_032715.pdf
- (24) http://www.swrcb.ca.gov/press_room/press_releases/2015/pr040715_rgcpd_febconservation.pdf
- (25) http://www.waterboards.ca.gov/press_room/press_releases/2015/pr030315_urbanwater.pdf
- (26) <http://www.acwa.com/news/conservation/urban-water-conservation-dips-february-warm-temperatures-cited-factor>
- (27) <http://www.acwa.com/news/conservation/urban-water-conservation-dips-february-warm-temperatures-cited-factor>
- (28) http://www.waterboards.ca.gov/waterrights/water_issues/programs/drought/docs/ws_tools_guidance_estimate_res_gpcd.pdf
- (29) Marcus, Felicia. "This is Not a Drill: 2015 Emergency Conservation Regulations." *2015 Drought Four Years and Counting: Impacts and Actions*. 9 April 2015, Sacramento. <http://www.acwa.com/events/2015-drought-briefing---four-years-and-counting-impacts-and-actions>
- (30) Laird, John. "2015 Operations and Response: State and Federal Perspectives." *2015 Drought Four Years and Counting: Impacts and Actions*. 9 April 2015, Sacramento. <http://www.acwa.com/events/2015-drought-briefing---four-years-and-counting-impacts-and-actions>