



City of Palo Alto

City Council Staff Report

(ID # 7054)

Report Type: Consent Calendar

Meeting Date: 8/15/2016

Summary Title: Resolution Implementing Stage 1 of Water Shortage Plan

Title: Adoption of a Resolution Implementing Water Use Restrictions in Stage 1 of the City's 2015 Water Shortage Contingency Plan and Repealing Resolution Number 9509

From: City Manager

Lead Department: Utilities

Recommendation

Staff recommends that Council adopt a resolution (Attachment A) to implement the actions in Stage I of the City of Palo Alto's 2015 Water Shortage Contingency Plan, and repeal Resolution 9509, which implemented, in May 2015, Stage II of the City's Water Shortage Contingency Plan.

Executive Summary

In response to the 2015 drought conditions and state-mandated 24% potable water use reduction target for the City, Council adopted Resolution 9509 on May 11, 2015, implementing water use restrictions in Stage II of the City's Water Shortage Contingency Plan (Plan).

After a more robust winter of precipitation, on March 18, 2016 the State Water Resources Control Board (SWRCB) replaced the state-determined mandatory water use reduction targets with a self-certification process designed to take into account local water supply conditions. The SWRCB's water use reduction target yields a 0% mandatory reduction for San Francisco Public Utilities Commission (SFPUC) customers. The SWRCB's May 2016 action also includes several specific regulations regarding water use, most of which are already included in City's permanent water use restrictions. The regulation is in effect at least until January 31, 2017.

Although the City is not expected to be subject to a state-mandated water use reduction target for the remainder of 2016, and the SFPUC has not declared a water shortage, SFPUC is asking for a voluntary 10% water use reduction, which is commensurate with Stage I actions in the City's Water Shortage Contingency Plan.

The proposed resolution rescinds Resolution 9509, which in May 2015 implemented all water use restrictions in Stage II of the City's Plan in response to a prior SWRCB emergency regulation, and instead implements the actions in Stage I of the City's 2015 Plan.

Background

On April 1, 2015, the Governor issued [Executive Order B-29-15](#) directing the SWRCB to develop regulations regarding water use, including a mandatory 25% reduction of urban potable water use for the State. On May 5, 2015, the SWRCB adopted [Resolution No. 2015-0032](#) mandating potable water use reductions for all water suppliers in California and implementing a number of water use restrictions.

The City of Palo Alto was issued a 24% mandatory potable water use reduction compared to calendar year 2013 usage, and on May 11, 2015, City Council adopted [Resolution 9509](#) (Attachment B) amending the City's 2010 Urban Water Management Plan and implementing all water use restrictions in Stage II of the City's Water Shortage Contingency Plan (Plan). On November 13, 2015, the Governor issued [Executive Order B-36-15](#) directing the SWRCB to extend restrictions to achieve a statewide reduction in potable usage until October 31, 2016, if drought conditions persisted through January 2016. From June 1, 2015, through the end of May 2016, the City reduced potable water use by more than 30% compared to 2013 usage. Reductions were achieved by implementing all action in Stage II of the City's plan as adopted in Resolution 9509.

In response to lessening drought conditions and recognizing the differences between the state's varied water supply sources, on May 9, 2016, the Governor issued [Executive Order B37-16](#) directing the SWRCB to adjust and extend its emergency water conservation regulations through the end of January 2017. On May 18, 2016, the SWRCB adopted [Resolution 2016-0029](#) to modify and extend the emergency regulations, including a self-certification process whereby water agencies calculate a water reduction target using historical water supply data and 3 years of projected water supply shortages. Applying the state's methodology yields a 0% water reduction target for the SFPUC's Regional Water Supply system. Because the SFPUC deploys a rigorous drought planning process, SFPUC is requesting that its customers voluntarily reduce potable water use by 10% compared to 2013. The SFPUC has not declared a water shortage emergency nor imposed mandatory cutbacks upon Palo Alto or any of SFPUC's wholesale customers.

Discussion

On May 16, 2016, City Council adopted Resolution 9589, approving the 2015 Urban Water Management Plan which included a revised Water Shortage Contingency Plan and an ordinance (effective July 7, 2016) expanding the permanent water use restrictions in Palo Alto Municipal Code 12.32.010. A 10% voluntary water use reduction is commensurate with the actions in Stage I of the City's Plan, which includes all permanent water use restrictions, but adds no additional restrictions.

Water Use Restrictions in the City's 2015 UWMP

The City's 2015 UWMP contains four water shortage stages that are summarized below.

- **Stage I** (5% to 10% supply reductions) calls for a low level of informational outreach and enforcement of the permanent water use ordinances.
- **Stage II** (10% to 20%) there will be a stepped up outreach effort and the adoption of some additional water use restrictions. Drought rate schedules may be implemented.
- **Stage III** (20% to 35%) calls for increased outreach activities and additional emergency water use restrictions. Drought rates in each block would increase from those in Stage II. Fines and penalties would be applied to users in violation of water usage restrictions. In some cases, water flow restriction devices would be installed on customers' meters.
- **Stage IV** (35% to 50%) requires very close management of the available water supplies. Allocations of water for each customer will be introduced. Informational outreach activities would be operating at a very high level. Severe water use restrictions and a restrictive penalty schedule would be implemented.

Per the proposed resolution, all elements of Stage I of the Plan will be implemented. Stage I includes only those restrictions in PAMC 12.32.010.

Permanent Water Use Restrictions in Palo Alto Municipal Code Section 12.32.010:

1. Flooding or runoff of potable water into gutters, driveways, sidewalks, streets or other non-landscaped areas is prohibited.
2. An operating shut-off valve is required for hoses used to wash cars, boats, trailers, buses or other vehicles, or to wash sidewalks, building structures, other hard-surfaced areas or parts thereof. Use of a hose for such purposes should be avoided whenever possible.
3. Potable water for consolidation of backfill and other nondomestic uses in construction shall not be used if other water sources, such as reclaimed water, are available, as determined by the Director of Utilities or his or her designee. Applicants for hydrant permits from the city of Palo Alto shall be deemed to have consented to restrictions on water use which may be imposed by the Director of Utilities or his or her designee.
4. Any broken or defective plumbing, sprinklers, watering or irrigation systems which permit the escape or leakage of water shall be repaired or replaced as soon as possible, but no later than the date established by the Director of Utilities, or his or her designee, as reasonable after observation of the broken or defective system.
5. Ornamental landscape¹ or turf irrigation with potable water shall not be allowed between 10:00 a.m. and 6:00 p.m., except via hand watering with a bucket or a hose with an operating shut-off valve.
6. The use of potable water in a fountain or other decorative water feature is prohibited, except where the water is part of a recirculating system.
7. The use of potable water for street sweepers/washers is prohibited if non-potable water is available, as determined by the Director of Utilities, or his or her designee.
8. Commercial car washes must use recycled water systems, if economically feasible.

¹ "Ornamental landscapes" serve purely decorative purposes, and are distinguished from trees, edible gardens or landscapes that provide more than a purely aesthetic function.

The SWRCB regulation prohibits a number a water uses, most of which are already included in Chapter 12.32.010 of City’s municipal code. Some of the State restrictions in California Code of Regulations Title 23, Section 864, however, are not included in the City’s permanent municipal code restrictions. These include the following actions which are prohibited except where necessary to address an immediate healthy and safety need or to comply with a term or condition in a permit issued by a state or federal agency:

1. Application of potable water to driveways and sidewalks.
2. Application of potable water to outdoor landscapes during and within 48 hours after a measurable rainfall.
3. The serving of drinking water other than upon request in eating or drinking establishments or places where food and drink are served and/or purchased.
4. Irrigation with potable water of ornamental turf on public street medians.
5. Irrigation with potable water of landscapes outside of newly constructed homes and buildings in a manner inconsistent with state and local building codes.

Lastly, the State restrictions require hotels and motels to provide guests with the option of not having towels and linens laundered daily.

A comparison of the SWRCB emergency regulations prohibiting certain water uses and the City’s existing Municipal Code restrictions is provided in Table 1.

Table 1: SWRCB Emergency Regulations and the City’s Permanent Water Use Regulations

Prohibitions in May 18, 2016 SWRCB Emergency Regulations²	City of Palo Alto’s Permanent Water Use Regulations³
Section 864 (a)(1): <i>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</i>	PAMC Section 12.32.010(a): <i>Potable water shall not be allowed to flood or run off into gutters: driveways, sidewalks, streets or other un-landscaped areas.</i>
Section 864 (a)(2): <i>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</i>	PAMC Section 12.32.010(b): <i>No use of water by means of a hose to wash cars, boats, trailers, buses or other vehicles or to wash sidewalks, building structures, other hard-surfaced areas or parts thereof without an operating automatic shut-off valve. Use of a hose for such purposes should be avoided whenever possible.</i>
Section 864 (a)(3): <i>The application of potable water to driveways and sidewalks, 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.</i>	Not included in municipal code; but locally enforceable at City’s discretion.

² Section 864 (a) (1) – (8) includes an exceptions when 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.

³ City Council adopted an Ordinance on May 16, 2016 expanding the permanent water use restrictions. The ordinance is effective July 7, 2016.

Prohibitions in May 18, 2016 SWRCB Emergency Regulations²	City of Palo Alto's Permanent Water Use Regulations³
Section 864 (a)(4): <i>The use of potable water in a fountain or other decorative water feature, except where the water is part of a recirculating system.</i>	PAMC Section 12.32.010(f): <i>The use of potable water in a fountain or other decorative water feature, except where the water is part of a recirculating system.</i>
Section 864 (a)(5): <i>The application of potable water to outdoor landscapes during and within 48 hours after measurable rainfall.</i>	Not included in municipal code; but locally enforceable at City's discretion.
Section 864 (a)(6): <i>The serving of drinking water other than upon request in eating or drinking establishments, including but not limited to restaurants, hotels, cafes, bars, or other public places where food or drink are served and/or purchased.</i>	Not included in municipal code; but locally enforceable at City's discretion.
Section 864 (a) (7): The irrigation with potable water of ornamental turf on public street medians.	The City of Palo Alto complies.
Section 864 (a) (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.	The City of Palo Alto complies.
Section 864 (b): <i>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 promptly display notice of this option in each guestroom using clear and easily understood language.</i>	Not included in municipal code; but locally enforceable at City's discretion.
	PAMC Section 12.32.010(e): <i>The irrigation of turf or ornamental landscapes, which serve purely decorative purposes, and are distinguished from trees, edible gardens or landscapes that provide more than a purely aesthetic function, with potable water shall not be allowed between 10:00 a.m. and 6:00 p.m., except via hand watering with a bucket or a hose with an operating shut-off valve.</i>
	PAMC Section 12.32.010(g): <i>The use of potable water for street sweepers and washers is prohibited if non-potable water is available, as determined by the Director of Utilities, or his or her designee.</i>
	PAMC Section 12.32.010(h): <i>Commercial car washed must use recycled water systems, if recycled water is available, as determined by the Director of Utilities, or his or her designee, and economically feasible.</i>

Prohibitions in May 18, 2016 SWRCB Emergency Regulations ²	City of Palo Alto's Permanent Water Use Regulations ³
865 (d)(1): <i>Provide prompt notice to a customer whenever the supplier obtains information that indicates that a leak may exist within the end-users exclusive control.</i>	Currently part of regular City operations

Reporting

By the 15th of each month, water suppliers are and will continue to be required to report:

1. The total volume of potable water produced in the preceeding month;
2. An estimate of the gallons of water per person per day used by residential customers;
3. The population served by the urban water supplier;
4. The percentage of water produced that is used for the residential sector;
5. Descriptive statistics on water conservation compliance and enforcement efforts; and
6. The number of days that outdoor irrigation is allowed.

Enforcement

Utilities staff will continue to manage enforcement of the SWRCB's and the City's water use restrictions using the process previously adopted by Council in Resolution 9460. Although efforts are currently focused on educating customers, a variety of enforcement options remain available for noncompliance with all of the City's water use restrictions in the City's Municipal Code and Utilities Rules and Regulations, including the installation of flow restrictors and termination of service. Experience with water use restriction enforcement in 2015 yielded few instances where a customer purposefully disregarded notices from the City.

The following is the process used when addressing noncompliance with water use restrictions:

- 1st Incident: Doorhanger/Email/Phone call to customer
- 2nd Incident: Doorhanger/Email/Phone call to customer
- 3rd Incident: Certified letter from the Utility Director notifying customer of noncompliance and potential future fines
- 4th Incident: Fines

The steps outlined above recognize that most incidents occur because customers are unaware of the prohibitions and the notification process accounts for normal occurrences (i.e vacation) and provides reasonable notice and an opportunity for customers to address the problem. The ultimate goal remains reduced water waste.

Timeline

The May 18, 2016 SWRCB modified emergency drought regulations were effective June 1, 2016. The regulations will remain in effect for until January 31, 2017 unless the SWRCB extends or modifies the regulations due to water supply conditions. The term of the City's Resolution will remain in effect through January 31, 2017, or as extended by the SWRCB or as long as the SFPUC 10% voluntary water use reduction request remains in effect.

Resource Impact

Implementation of the 2014 emergency regulations resulted in the City hiring a part-time Water Waste Coordinator. This position will remain in place and there are existing funds within the current budget to cover the expense. Water conservation efforts reduce water sales. A drought surcharge is currently in place to compensate for lost revenue. Staff will continue to closely monitor citywide water usage and may return to Council with a request to eliminate, or modify the level of, the drought surcharge.

Policy Implications

The City has permanent water use restrictions and enforcement procedures in place and has increased messaging and water conservation efforts in response to the drought conditions. The recommended action is consistent with the Utilities Strategic Plan's objective to promote efficient use of resources.

Environmental Review

Council's adoption of the proposed resolution is categorically exempt from the California Environmental Quality Act (CEQA) under CEQA Guidelines 15307 (Actions by Regulatory Agencies for Protection of Natural Resources).

Attachments:

- Attachment A: Proposed Resolution Rescinding 9509 and Implementing Stage I Actions of the City's Water Shortage Contingency Plan (PDF)
- Attachment B: City of Palo Alto Resolution 9509 (PDF)
- Attachment C: SWRCB Resolution 2016 0029 Emergency Water Regulations (PDF)

Resolution No. _____

Resolution of the Council of the City of Palo Alto Repealing Resolution 9509 and
Implementing Water Use Restrictions in Stage I of the City's 2015 Water
Shortage Contingency Plan

RECITALS

- A. On January 17, 2014, Governor Edmund G. Brown Jr. issued Proclamation No. 1-17-2014 declaring a State of Emergency to exist in California due to severe drought conditions and calling on Californians to reduce their water usage by 20 percent.
- B. On April 25, 2014, the Governor issued an Executive Order to strengthen the state's ability to manage water and directed the State Water Resources Control Board (SWRCB) under its authority in California Water Code Section 1058.5 to adopt emergency regulations as it deems necessary to address water shortage conditions.
- C. On April 1, 2015, the Governor issued an Executive Order that directed the SWRCB to impose restrictions on water suppliers to achieve a statewide 25 percent reduction in potable urban water usage through February 2016.
- D. On May 5, 2015, the State Water Resources Control Board adopted Resolution No. 2015-0032 mandating potable water use reductions for all water suppliers in California and implementing a number of water use restrictions. The City of Palo Alto (City) was issued a 24% mandatory potable water use reduction compared to calendar year 2013.
- E. On May 11, 2015, the City Council Adopted Resolution 9509 amending the City's 2010 Urban Water Management Plan and implementing all water use restrictions in Stage II of the City's Water Shortage Contingency Plan.
- F. On November 13, 2015, the Governor issued an Executive Order directing the SWRCB to, if drought conditions persisted through January 2016, extend until October 31, 2016, restrictions to achieve a statewide reduction in potable usage.
- G. On May 9, 2016, the Governor issued and Executive order directing the SWRCB to adjust and extend its emergency water conservation regulations through the end of January 2017 in recognition of the differing water supply conditions for many communities.
- H. On May 16, 2016, City Council adopted Resolution 9589 approving the 2015 Urban Water Management Plan, including a revised Water Shortage Contingency Plan.
- I. On May 16, 2016, City Council adopted an ordinance (effective July 7, 2016) expanding the permanent water use restrictions in Palo Alto Municipal Code 12.32.010.

Not Yet Approved

J. On May 18, 2016, the SWRCB modified and extended the emergency regulations in California Code of Regulations, Title 23, Sections 864, and 865. Section 864 applies to all Californians and prohibits certain activities in promotion of water conservation, many of which are already required by Palo Alto Municipal Code 12.32.010. Section 865 requires mandatory outdoor irrigation restrictions and reporting by water suppliers, including urban water suppliers like the City.

K. The City receives 100% of its potable supplies from the San Francisco Public Utilities Commission (SFPUC). Under the new SWRCB regulation, SFPUC customers will have a 0% water reduction target. The SFPUC has requested a 10% voluntary water consumption reduction in response to the drought and their determination of available supplies in the regional water system. The SFPUC has not declared a water shortage emergency nor imposed mandatory cutbacks upon Palo Alto or any of SFPUC's wholesale customers.

L. The City supports the SWRCB's efforts to encourage conservation, with an emphasis on outdoor water use, to the extent it may do so within the context of its Council-approved Urban Water Management Plan, Utility Rules and Regulations, and the Palo Alto Municipal Code.

M. The City has implemented an education-based compliance plan and is working with customers, including City facilities, to comply with the SWRB water use restrictions.

N. While a variety of civil and criminal enforcement procedures are available to the City to prevent the waste and unreasonable use of water, the City wishes to continue the education-based enforcement procedure established by Resolution 9460 for nonobservance of the water use restrictions referred to in Section 2 below, by directing staff to first attempt to achieve compliance via educational outreach, followed by the issuance of fines for each day of willful or repeated noncompliance.

The Council of the City of Palo Alto hereby RESOLVES as follows:

SECTION 1. Findings:

A. Article 10, Section 2 of the California Constitution declares that waters of the State are to be put to beneficial use, that waste, unreasonable use, or unreasonable method of use of water be prevented, and that water be conserved for the public welfare.

B. City regulation of the time and manner of certain water use, design of rates, method of application of water for certain uses, and establishment of enforcement procedures for violations of water use restrictions are an effective and immediately available means of conserving water, and is authorized by Palo Alto Municipal Code Section 12.20.010.

C. In recognition of the recent lessening of the state's drought conditions and the SFPUC's request for a voluntary 10% water use reduction, the Council finds that implementation of the water use restrictions in Stage I of the City's Water Shortage Contingency Plan is now appropriate.

SECTION 2: Resolution 9509, which amended the City's 2010 Urban Water Management Plan and implemented all water use restrictions in Stage II of the City's Water Shortage Contingency Plan, is repealed.

SECTION 3: The Stage I water use restrictions included in the City's 2015 Water Shortage Contingency Plan, as described in the City's 2015 Urban Water Management Plan, are in effect as of the date of this resolution.

SECTION 3. Implementation of Stage I of the Water Shortage Contingency Plan will remain in effect for the 270 day period specified in SWRCB Resolution No. 2016-0029, or as extended by the SWRCB.

SECTION 4. Council directs staff to further promote water conservation by continuing to notify customers if any leak is detected and preparing and submitting to the SWRCB the monitoring reports described in California Code of Regulations, Title 23, Section 865(d)(2).

SECTION 5. Enforcement of the restrictions and requirements outlined in Stage I of the Water Shortage Contingency Plan shall follow the education-based process outlined in Resolution 9460.

SECTION 6. Council's adoption of this resolution is categorically exempt from CEQA under CEQA Guidelines 15307 (Actions by Regulatory Agencies for Protection of Natural Resources).

INTRODUCED AND PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

City Clerk

Mayor

Not Yet Approved

APPROVED AS TO FORM:

APPROVED:

Senior Deputy City Attorney

City Manager

Director of Utilities

Director of Administrative Services

WATER USE RESTRICTIONS

Water use restrictions will depend on local conditions and on the length of the water shortage or drought. The City's Water Shortage Contingency Plan identifies measures appropriate for various stages of action, based on reduction targets for each stage. Section A of this Appendix describes the City's existing water use regulations. Section A-1 of this Appendix describes additional proposed permanent water use regulations to be adopted by City Council Ordinance. The restrictions in Section B are additional restrictions that could be applied in various stages or a drought or other water supply shortage. These staged restrictions are intended to serve as tools within the broader framework of the Urban Water Shortage Contingency Plan, to help the City reduce potable water consumption.

Implementation of individual restrictions within each stage shall be carried out at the direction of the City Council, in response to its assessment of local water supply conditions, feasibility, and consumption trends. The Council may, in its discretion, opt to revise, delete or include different elements than those described below, so long as the restrictions implemented serve the overall purpose of reducing local consumption.

A. Permanent Water Use Regulations (See Palo Alto Municipal Code Section 12.32.010)

1. Flooding or runoff of potable water into gutters, driveways, sidewalks, streets or other unlandscaped areas is prohibited.
2. An operating shut-off valve is required for hoses used to wash cars, boats, trailers, buses or other vehicles, or to wash sidewalks, building structures, other hard-surfaced areas or parts thereof. Use of a hose for such purposes should be avoided whenever possible.
3. Potable water for consolidation of backfill and other nondomestic uses in construction shall not be used if other water sources, such as reclaimed water, are available, as determined by the Director of Utilities or his or her designee. Applicants for hydrant permits from the city of Palo Alto shall be deemed to have consented to restrictions on water use which may be imposed by the Director of Utilities or his or her designee.
4. Any broken or defective plumbing, sprinklers, watering or irrigation systems which permit the escape or leakage of water shall be repaired or replaced as soon as possible, but no later than the date established by the Director of Utilities, or his or her designee, as reasonable after observation of the broken or defective system.

A-1. Proposed Additional Water Use Restrictions, to be added to Palo Alto Municipal Code Section 12.32.010.

Not Yet Approved

5. Ornamental landscape¹ or turf irrigation with potable water shall not be allowed between 10:00 a.m. and 6:00 p.m., except via hand watering with a bucket or a hose with an operating shut-off valve.
6. The use of potable water in a fountain or other decorative water feature is prohibited, except where the water is part of a recirculating system.
7. The use of potable water for street sweepers/washers is prohibited if non-potable water is available, as determined by the Director of Utilities, or his or her designee.
8. Commercial car washes must use recycled water systems, if economically feasible.

B. Additional Restrictions Available for Council's Consideration in Droughts or Other Water Supply Shortages

Stage I:

No additional restrictions

Stage II:

1. Irrigation with potable water during and within 48 hours after a measurable rainfall, as determined by the Director of Utilities, or his or her designee, and posted on the Palo Alto website, is prohibited.
2. The irrigation of ornamental landscapes¹ or turf with potable water more than three days per week is prohibited during the months of April through October.²
2. The irrigation of ornamental landscapes or turf with potable water more than one day per week is prohibited during the months of November through March.²
3. The application of potable water to driveways and sidewalks 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.
4. Restaurants and other food service operations shall serve water to customers only upon request.
5. 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.

Stage III:

All water use restrictions for Stage II, and the following:

1. The irrigation of ornamental landscapes¹ or turf with potable water more than two days per week is prohibited during the months of April through October.²
2. The filling of newly constructed pools, spas and hot tubs is prohibited.
3. Water allocations may be imposed.
4. Irrigation with potable water on golf courses is limited to putting greens and tees.

Stage IV:

All water use restrictions for Stages II and III, and the following:

Not Yet Approved

1. No new water service connections are permitted unless the customer pays for sufficient conservation measures to be applied elsewhere in the City, to offset anticipated water use at the site to be served by the new water service, as determined by the City of Palo Alto.
2. Drought tolerant landscaping that minimizes irrigation and runoff is required at new construction sites, and non-drought tolerant landscaping is prohibited.
3. Ornamental landscape and turf irrigation with potable water is prohibited.
6. The washing of all vehicles is prohibited except for at commercial washing facility that recirculates its water or uses recycled water.
7. Sprinkler irrigation is prohibited.

¹ “Ornamental landscapes” serve purely decorative purposes, and are distinguished from trees, edible gardens or landscapes that provide more than a purely aesthetic function.

² Customers with a public or private non-residential facility containing ornamental landscapes or turf which supports a demonstrable business necessity or public benefit may apply for City approval of an alternative irrigation schedule.

Resolution No. 9509
Resolution of the Council of the City of Palo Alto
Amending the City's 2010 Urban Water Management
Plan in Compliance with the State Water Resources
Control Board's March 17, 2015 Emergency Water
Conservation Regulations

R E C I T A L S

A. On January 17, 2014, Governor Edmund G. Brown Jr. issued Proclamation No. 1-17-2014 declaring a State of Emergency to exist in California due to severe drought conditions and calling on Californians to reduce their water usage by 20 percent.

B. On April 25, 2014, the Governor issued an Executive Order to strengthen the state's ability to manage water and directed the State Water Resources Control Board (SWRCB) under its authority in California Water Code Section 1058.5 to adopt emergency regulations as it deems necessary to address water shortage conditions.

C. On July 15, 2014, the SWRCB adopted California Code of Regulations, Title 23, Sections 863, 864, and 865, emergency regulations finding a drought emergency in California and imposing water conservation measures on individuals and water suppliers. On August 4, 2014 the Palo Alto City Council (Council) adopted Resolution 9449, implementing outdoor water use restrictions in compliance with the SWRCB emergency directive.

D. On March 17, 2015, the SWRCB readopted and expanded the emergency regulations in California Code of Regulations, Title 23, Sections 863, 864, and 865. Section 864 applies to all Californians and prohibits certain activities in promotion of water conservation, many of which are already required by Palo Alto Municipal Code 12.32.010 or were adopted on August 4, 2014 by Resolution 9449. Section 865 requires mandatory outdoor irrigation restrictions and reporting by water suppliers, including urban water suppliers like the City of Palo Alto (City).

E. The City receives 100% of its potable supplies from the San Francisco Public Utilities Commission (SFPUC). The SFPUC has requested a 10% voluntary water consumption reduction in response to the drought and their determination of available supplies in the regional water system. The SFPUC has not declared a water shortage emergency nor imposed mandatory cutbacks upon Palo Alto or any of SFPUC's wholesale customers. The City has responded to SFPUC's voluntary water consumption reduction request and achieved an approximate 16% reduction in water use in 2014 relative to 2013.

F. The City's Municipal Code, Utility Rule and Regulation 21, and 2010 Urban Water Management Plan (approved by Council on June 13, 2011 and approved by the Department of Water Resources on July 8, 2014) include a Water Shortage Contingency Plan and other tools to encourage responsible management of the City's water resources.

G. The City supports the SWRCB's efforts to encourage conservation, with an emphasis on outdoor water use, to the extent it may do so within the context of its Council-approved Urban Water Management Plan, Utility Rules and Regulations, and the Palo Alto Municipal Code.

H. The City has implemented an education-based compliance plan and is working with customers, including City facilities, to comply with the SWRB water use restrictions.

I. While a variety of civil and criminal enforcement procedures are available to the City to prevent the waste and unreasonable use of water, the City wishes to continue the education-based enforcement procedure established by Resolution 9460 for violations of the water use restrictions referred to in Section 2 below, by directing staff to first attempt to achieve compliance via educational outreach, followed by the issuance of fines of \$100 per violation per day for willful or repeated violations.

The Council of the City of Palo Alto RESOLVES as follows:

SECTION 1. Findings

A. Article 10, Section 2 of the California Constitution declares that waters of the State are to be put to beneficial use, that waste, unreasonable use, or unreasonable method of use of water be prevented, and that water be conserved for the public welfare.

B. Governor Brown issued emergency water shortage declarations on January 17 and April 25, 2014, and conservation of current water supplies and minimization of the effects of water supply shortages that are the result of drought are essential to the public health, safety and welfare.

C. City regulation of the time and manner of certain water use, design of rates, method of application of water for certain uses, and establishment of enforcement procedures for violations of water use restrictions are an effective and immediately available means of conserving water, and is authorized by Palo Alto Municipal Code Section 12.20.010.

D. The Council finds that the amended 2010 Urban Water Management Plan meets the requirements of California Code of Regulations, Title 23, Section 865(b)(1) and is intended to complement the City's existing and permanent water use restrictions, codified in Palo Alto Municipal Code Section 12.32.010.

SECTION 2: Appendix H, "Water Use Restrictions" of the 2010 Urban Water Management Plan is hereby amended and adopted in compliance with the SWRCB's March 17, 2015 emergency drought regulations, as attached and incorporated. All other elements of the 2010 Urban Water Management Plan remain in full force in effect.

SECTION 3. Council hereby adopts each of the Stage II water use restrictions included in the City's Water Shortage Contingency Plan, as described in the amended 2010 Urban Water Management Plan.

SECTION 4. Council directs the City Manager to establish an implementation process for the mandatory irrigation restrictions by May 11, 2015,

SECTION 5. The water use restrictions in Stage II of the Water Shortage Contingency Plan will remain in effect for the 270 day period specified in SWRCB Resolution No. 2015-0013, or as extended by the SWRCB.

SECTION 6. Council directs staff to further promote water conservation by continuing to notify customers if any leak is detected and preparing and submitting to the SWRCB the monitoring reports described in California Code of Regulations, Title 23, Section 865(d)(2).

SECTION 7. Enforcement of the restrictions and requirements outlined in Stage II of the Water Shortage Contingency Plan shall follow the education-based process outlined in Resolution 9460.

SECTION 8. Council's adoption of the proposed amended Urban Water Management Plan is categorically exempt from CEQA under CEQA Guidelines 15307 (Actions by Regulatory Agencies for Protection of Natural Resources).

INTRODUCED AND PASSED: May 11, 2015


AYES: BERMAN, BURT, DUBOIS, FILSETH, HOLMAN, KNISS, SCHARFF, SCHMID, WOLBACH

NOES:


ABSENT:

ABSTENTIONS:

ATTEST:

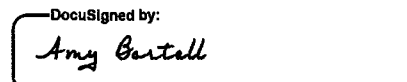


City Clerk




Mayor

APPROVED AS TO FORM:

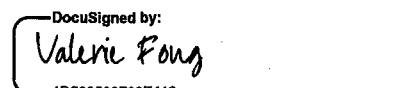
DocuSigned by:


DOB48F317E9342B...
Senior Deputy City Attorney


APPROVED:

DocuSigned by:


39E7298FB2084DB...
City Manager

DocuSigned by:


1D583588F83E412...
Director of Utilities

DocuSigned by:


B2ADE35ED7C5498...
Director of Administrative Services

WATER USE RESTRICTIONS

Section A of this Appendix describes the City's existing water use regulations, as well as additional restrictions that could be applied in various stages of a drought or other water supply shortages. The restrictions in Section B are intended to serve as tools within the broader framework of the Urban Water Shortage Contingency Plan to help the City reduce potable water consumption. Implementation of individual restrictions within each stage shall be carried out at the direction of the City Council, in response to its assessment of local water supply conditions, feasibility, and consumption trends. The Council may, in its discretion, opt to revise, delete or include different elements than those described below, so long as the restrictions implemented serve the overall purpose of reducing local consumption.

A. Existing Water Use Regulations (See Palo Alto Municipal Code Section 12.32.010)

1. Flooding or runoff of potable water is prohibited.
2. A shut-off valve is required for hoses used to wash vehicles, sidewalks, buildings, etc.
3. Potable water for construction uses is prohibited if recycled water is available.
4. Broken or defective plumbing and irrigation systems must be repaired or replaced within a reasonable period.

B. Additional Restrictions to be Applied in Droughts or Other Water Supply Shortages

Stage I: No additional restrictions

Stage II:

1. Landscape or turf irrigation with potable water shall not be allowed between 10:00 a.m. and 6:00 p.m., except for drip irrigation, soaker hoses and hand watering.
2. The application of potable water to landscapes or turf during and within 48 hours after a measurable rainfall is prohibited.
3. The irrigation of ornamental¹ landscapes or turf with potable water more than two days per week is prohibited. Customers may apply to the City for an alternative irrigation schedule demonstrating the need to irrigate with potable water more than two days per week but less than 7 days per week and proposing a plan to reduce potable water use by an amount acceptable to the City.
4. The application of potable water to driveways and sidewalks 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.
5. The use of potable water in a fountain or other decorative water feature is prohibited, except where the water is part of a recirculating system.
6. Restaurants and other food service operations shall serve water to customers only upon request.

7. 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.

Stage III:

All water use restrictions for Stage II, and the following:

1. Newly constructed pools, spas and hot tubs may not be filled.
2. Outdoor water use audits are required for those customers continuing to use more than target allotments for three months.
3. Commercial car washes must use recycled water systems, if economically feasible.
4. Verified water waste will serve as prima facie evidence that the allocation assigned to the water account is excessive and subject to reduction.
5. The use of potable water on golf courses is limited to putting greens and tees.
6. The use of potable water for street sweepers/washers is prohibited.

Stage IV:

All water use restrictions for Stages II and III, and the following:

1. No new water service hookups unless customer pays for sufficient conservation elsewhere to offset anticipated water use.
3. No new landscaping installed at new construction sites. Bonds to be posted for landscaping after water shortage emergency is lifted.
4. Turf irrigation prohibited.
6. Once-through cooling systems must be converted to recycling systems.
7. The washing of all vehicles is prohibited outside of a commercial washing facility that recycles its water.
8. Irrigation by sprinklers is prohibited.

ⁱ "Ornamental landscapes" refers to landscaping for purely decorative purposes, to be distinguished from edible gardens or landscapes that provide a function beyond aesthetics.

Certificate of Completion

Envelope Number: F1A362369BD940F2A027518DFC79A824
Subject: Please DocuSign this document: RESO 9509 amending urban water mangt plan.pdf
Source Envelope:
Document Pages: 5
Certificate Pages: 5
AutoNav: Enabled
Envelopeld Stamping: Enabled

Status: Completed

Envelope Originator:
Kim Lunt
250 Hamilton Ave
Palo Alto , CA 94301
kimberly.lunt@cityofpaloalto.org
IP Address: 199.33.32.254

Record Tracking

Status: Original
6/2/2015 10:15:34 AM PT

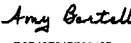
Holder: Kim Lunt
kimberly.lunt@cityofpaloalto.org

Location: DocuSign

Signer Events

Amy Bartell
Amy.Bartell@CityofPaloAlto.org
Security Level: Email, Account Authentication
(None)

Signature

DocuSigned by:

DOB46F317E9342B...

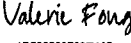
Using IP Address: 199.33.32.254

Timestamp

Sent: 6/2/2015 10:20:52 AM PT
Viewed: 6/2/2015 10:28:41 AM PT
Signed: 6/2/2015 10:29:11 AM PT

Electronic Record and Signature Disclosure:
Accepted: 6/2/2015 10:28:41 AM PT
ID: 3c172610-08e0-4721-8750-3e74e84542bc

Valerie Fong
Valerie.Fong@CityofPaloAlto.org
Security Level: Email, Account Authentication
(None)

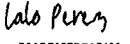
DocuSigned by:

1D583588F83E412...

Using IP Address: 199.33.32.254

Sent: 6/2/2015 10:29:13 AM PT
Viewed: 6/2/2015 1:58:56 PM PT
Signed: 6/9/2015 1:30:45 PM PT

Electronic Record and Signature Disclosure:
Accepted: 6/9/2015 1:30:21 PM PT
ID: b4e0b2e4-1218-4482-b211-96076bebfdc7

Lalo Perez
Lalo.Perez@CityofPaloAlto.org
Security Level: Email, Account Authentication
(None)

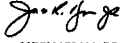
DocuSigned by:

B2ADF36ED7C5496...

Using IP Address: 199.33.32.254

Sent: 6/9/2015 1:30:47 PM PT
Viewed: 6/9/2015 3:05:09 PM PT
Signed: 6/9/2015 3:05:21 PM PT

Electronic Record and Signature Disclosure:
Accepted: 6/9/2015 3:05:09 PM PT
ID: fa070a5c-af48-40ec-97d5-f814807e6b88

James Keene
james.keene@cityofpaloalto.org
City Manager
City of Palo Alto
Security Level: Email, Account Authentication
(None)

DocuSigned by:

33E7298FB2004DB...

Using IP Address: 199.33.32.254

Sent: 6/9/2015 3:05:23 PM PT
Viewed: 6/17/2015 5:18:58 PM PT
Signed: 6/17/2015 5:19:16 PM PT

Electronic Record and Signature Disclosure:
Accepted: 4/14/2015 5:40:07 PM PT
ID: 44fe333a-6a81-4cb7-b7d4-925473ac82e3

In Person Signer Events

Signature

Timestamp

Editor Delivery Events

Status

Timestamp

ATTACHMENT C

STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2016-0007

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. It orders that any provision of the governing document, architectural or landscaping guidelines, or policies of a common interest development will be void and unenforceable to the extent it has the effect of prohibiting compliance with the water-saving measures contained in this directive, or any conservation measure adopted by a public agency or private water company. 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 [Executive Order B-29-15](#) 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. On May 5, 2015, the State Water Resources Control Board (State Water Board) adopted [Board Resolution No. 2015-0032](#) and an Emergency Regulation to address specific provisions of [Executive Order B-29-2015](#) that included a mandatory 25 percent statewide reduction in potable urban water use between June 2015 and February 2016. To implement the Executive Order, the Emergency Regulation placed each urban water supplier in a conservation tier, ranging between 4 and 36 percent, based residential per capita water use for the months of July – September 2014. Resolution No. 2015-0032 also directed staff to work with stakeholders to further develop and consider a range of factors that contribute to water use, including but not limited to climate, growth, investment in local, drought resilient supplies, and others for adjustment to the current emergency regulation should it need to be extended into 2016;
6. On November 13, 2015, Governor Brown issued [Executive Order B-36-15](#) calling for an extension of urban water use restrictions until October 31, 2016, should drought conditions persist through January 2016. This Executive Order also directs the State Water Board to consider modifying the restrictions to address uses of potable and non-potable water, as well as to incorporate insights gained from the existing restrictions;
7. As of January 15, 2016, the state has experienced some much-needed snow and rainfall in December and January; However, surface and groundwater storage remains depleted, precipitation has been inconsistent, and snowpack is about average, and the full hydrologic water conditions for 2016 will not be known until April 2016;
8. 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”;
9. 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);
10. 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;
11. On May 5, 2015, the State Water Board amended and readopted the emergency regulation to support water conservation ([Resolution No. 2015-0032](#)), which became effective May 18, 2015 upon approval by OAL and expires February 13, 2016;
12. State Water Board estimates that suppliers and their customers will save more than one million acre-feet of water in response to the extended regulation. This savings will be in addition to the 1.2 million acre-feet the State is on track to have saved from June 2015 through February 2016;

13. Under the May 5, 2015 emergency regulation, urban water suppliers, large and small, have reduced statewide potable water usage more than 25 percent compared to 2013, through the significant efforts of the suppliers and their customers;
14. 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;
15. Although urban water suppliers have placed restrictions on outdoor watering, the State Water Board continues to receive reports of excessive outdoor water use, and not all suppliers have achieved their conservation standards under the May 5, 2015 emergency regulation;
16. 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;
17. 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;
18. 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>);
19. 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;
20. 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;

21. 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;
22. On December 21, 2015, the State Water Board issued a draft framework proposing modest adjustments to the May 5 emergency regulation structure, keeping the increasing levels of required water reduction based upon residential per capita per day use (R-GPCD), and adding several credits that reduce a supplier's required water reduction based on certain conditions. The State Water Board solicited public comments on the proposed framework and received over 200 comments, primarily relating to the levels and types of credits and consideration of updated drought conditions in April 2016, at which time more information will be available on 2016 snowpack and reservoir levels;
23. On January 15, 2016 the State Water Board issued draft regulatory language for public comment based on the December 21, 2015 framework and the comments received. The draft regulatory language reflected careful consideration of all comments including those directed at the levels of required reduction. The draft regulatory language extends the May 2015 emergency regulation, that otherwise would expire on February 13, 2016, and provides modest equity credits and adjustments to address geographic climate differences, new growth, and investments made in new, local, drought resilient potable water supplies;
24. On January 22, 2016, the State Water Board initiated the formal emergency rulemaking process by issuing public notice that it would consider the adoption of the emergency regulation at the Board's regularly-scheduled February 2, 2016 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;
25. As discussed above, the State Water Board is adopting the extended emergency regulation as directed by the Governor in Executive Order B-36-15 based on the need for prompt action to prevent the waste and unreasonable use of water and to promote conservation because the May 15 emergency regulation is set to expire on February 13, 2016, emergency drought conditions still exist, and stakeholders have requested reasonable and modest adjustments to the existing emergency regulation; and
26. 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 readopts California Code of Regulations, title 23, sections 863, 864, 865 and 866, 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. In consideration of the fact that Executive Order B-36-15 directs the State Water Board to extend restrictions to achieve statewide reductions in urban potable water usage if drought conditions persist through January 2016, and the fact that in many years a significant portion of the state's rainfall and snowpack occur in February and March, the State Water Board directs staff to monitor and evaluate available data on precipitation, snowpack, reservoir storage levels, and other factors and report back to the Board in March and April, 2016 and, if conditions warrant, bring a proposal for rescission or adjustment of this regulation to the Board no later than the second regularly-scheduled May 2016 Board meeting;
6. The State Water Board directs staff to provide the Board with monthly updates on the implementation of the emergency regulation and its effect;
7. The State Water Board directs staff to condition funding upon compliance with the emergency regulation, to the extent feasible;
8. The State Water Board directs staff to work with DWR and the Save Our Water campaign to disseminate information regarding the emergency regulation; and
9. The State Water Board directs staff to update the electronic reporting portal to include data fields for reporting required by the emergency regulation.

THEREFORE BE IT FURTHER RESOLVED THAT:

10. 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;

11. 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 2016, 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 18.
12. The State Water Board calls upon all businesses within California's travel and tourism sectors to inform visitors of California's drought situation and actions visitors should take to conserve water;
13. The State Water Board calls upon all homeowners' associations to support and cooperate with water suppliers' and their residents' efforts to conserve water in community apartment projects, condominium projects, planned developments, and stock cooperatives statewide;
14. The State Water Board commends wholesale water agencies that have set aggressive conservation targets for their retail water suppliers and who have invested heavily in subsidizing efficiency measures such as turf and toilet rebates, recycled water production, and other potable water augmentation measures;
15. 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 and the Board is committed to moving towards a more resilience based approach to emergency water conservation and in any permanent measures going forward;

16. The State Water Board commends the many water suppliers that have taken steps and made systemic changes that have led to them surpassing their 20x2020 conservation targets as well as their emergency 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;
17. 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;
18. 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;
19. Some water suppliers have called for further refinement of the tiers and have called for an approach that provides greater recognition for early investments in conservation; the development of local, drought resistant water supplies that include banked groundwater; regional compliance mechanisms; differing regional water supply conditions; climate; and health and safety needs. These suggestions and many others have been considered in the context of the current drought emergency, will inform any revisions to these emergency regulations during the spring as the 2016 water supply information becomes more complete, and are separately important considerations for the development of a more comprehensive long-term conservation framework. The State Water Board directs staff to continue working with stakeholders on further refinement of these emergency water conservation regulations to be considered in tandem with an assessment of where the current winter precipitation leaves us; and
20. The California Water Action Plan calls for making conservation a way of life, increasing regional water self-reliance, and expanding storage capacity, among other actions. Long term water security will depend on implementing a range of actions and the State Water Board recognizes that these actions must advance in a complementary manner such that one action does not impede the progress of another. The State Water Board recognizes that conservation requirements implemented in response to critical drought conditions differ from those actions needed to optimize urban water use efficiency and build resilience over the long-term. Resilience to drought requires a combination of water efficiency and the development of new sustainable supplies, such as recycling, stormwater capture and re-use, local storage to capture water in wet years for use in dry years, and other actions. However, the effect of climate change on California weather patterns and snowpack will undoubtedly put increased pressure on the water supply and pose greater risk for extreme weather conditions, including longer and more severe

droughts. It is imperative that State agencies and water suppliers have the information and mechanisms needed to best respond to critical drought emergencies and that all sources of urban water be used efficiently over the long-term. Staff is directed to engage the Department of Water Resources in developing a proposed framework for enhanced urban water conservation, efficiency and resilience. Staff is directed to report back to the Board on options for transitioning to a more resilience-based approach to dealing with the future by May 1 after continuing conversations with stakeholders and the Department of Water Resources.

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 February 2, 2016.

AYE: Chair Felicia Marcus
Vice Chair Frances Spivy-Weber
Board Member Steven Moore

NAY: None

ABSENT: Board Member Tam M. Doduc
Board Member Dorene D'Adamo

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) On November 13, 2015, the Governor issued an Executive Order that directs the State Board to, if drought conditions persist through January 2016, extend until October 31, 2016 restrictions to achieve a statewide reduction in potable usage;

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

~~(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~~ October 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 (e), or the failure to take any action required in ~~subdivisions~~ subdivision (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.

(e)(1) To prevent the waste and unreasonable use of water and to promote water conservation, any homeowners' association or community service organization or similar entity is prohibited from:

(A) Taking or threatening to take any action to enforce any provision of the governing documents or architectural or landscaping guidelines or policies of a common interest development where that provision is void or unenforceable under section 4735, subdivision (a) of the Civil Code; or

(B) Imposing or threatening to impose a fine, assessment, or other monetary penalty against any owner of a separate interest for reducing or eliminating the watering of vegetation or lawns during a declared drought emergency, as described in section 4735, subdivision (c) of the Civil Code.

(2) As used in this subdivision:

(A) "Architectural or landscaping guidelines or policies" includes any formal or informal rules other than the governing documents of a common interest development.

(B) "Homeowners' association" means an "association" as defined in section 4080 of the Civil Code.

(C)“Common interest development” has the same meaning as in section 4100 of the Civil Code.

(D)“Community service organization or similar entity” has the same meaning as in section 4110 of the Civil Code.

(E) “Governing documents” has the same meaning as in section 4150 of the Civil Code.

(F) “Separate interest” has the same meaning as in section 4185 of the Civil Code.

(3) If a disciplinary proceeding or other proceeding to enforce a rule in violation of subdivision (e)(1) is initiated, each day the proceeding remains pending shall constitute a separate violation of this regulation.

Authority: Section 1058.5, Water Code.

References: Cal. Const., Art., X § 2; Sections 4080, 4100, 4110, 4150, 4185, and 4735, Civil Code; 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~~ November 13, 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), as modified by subdivision (f).

(2) Compliance with the requirements of this subdivision shall be measured monthly and assessed on a cumulative basis through October 2016.

(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), (C), (D) or (E) of this section that is found to be materially false by the ~~board~~ 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) In consideration of the differences in climate affecting different parts of the state, growth experienced by urban areas and significant investments that have been made by some suppliers towards creating new, local, drought-resilient sources of potable water supply, an urban water supplier's conservation standard identified in subdivision (c) shall be reduced by an amount, not to exceed eight (8) percentage points total, as follows:

(1) For an urban water supplier whose service area evapotranspiration (ETo) for the months of July through September exceeds the statewide average evapotranspiration, as determined by the Board, for the same months by five (5) percent or more, the supplier's conservation standard identified in subdivision (c) shall be reduced:

(A) By two (2) percentage points if the supplier's service area evapotranspiration exceeds the statewide average by five (5) percent or more but less than ten (10) percent;

(B) By three (3) percentage points if the supplier's service area evapotranspiration exceeds the statewide average by ten (10) percent or more but less than twenty (20) percent;

(C) By four (4) percentage points if the supplier's service area evapotranspiration exceeds the statewide average by twenty (20) percent or more.

(D) Statewide average evapotranspiration is calculated as the arithmetic mean of all urban water suppliers' service area default evapotranspiration values for the months of July through September. Default service area evapotranspiration will be based on the California Irrigation Management System (CIMIS) ETo Zones Map zone for which the supplier's service area has the greatest area of overlap. In lieu of applying its default

service area evapotranspiration, a supplier may use specific data from CIMIS stations within its service area that have at least a five-year period of record, or a three year continuous period of record, to identify a more specifically-applicable evapotranspiration for its service area. If no CIMIS station exists within the supplier's service area, a weather station of comparable accuracy, meeting the preceding period of record requirements, may be used. To qualify for the in-lieu climate adjustment the supplier shall submit the following data to the Board by March 15, 2016 for each station: station ID; station location; and monthly average evapotranspiration, in inches per month, for July, August, and September for either the five-year period of record or the three-year continuous period of record.

(2) To account for water efficient growth experienced in the state since 2013, urban water suppliers' conservation standards shall be reduced by the product of the percentage change in potable water production since 2013 and the percentage reduction in potable water use required pursuant to subdivision (c), rounded to the nearest whole percentage point. Change in potable water production since 2013 shall be calculated as the sum of the following:

(A) The number of additional permanent residents served since January 1, 2013, multiplied the average residential water use per person for that supplier's service area during the months of February through October, 2015, in gallons; and

(B) The number of new commercial, industrial and institutional connections since January 1, 2013, multiplied by the average commercial, industrial and institutional water use per connection for that supplier's service area during the months of February through October, 2015, in gallons.

(C) To qualify for the growth credit the supplier shall submit to the Board the following data by March 15, 2016: the number of additional permanent residents served since January 1, 2013; the area of new residential landscaping, in square feet, served by a supplier's service connections since January 1, 2013; and the number of new commercial, industrial and institutional connections since January 1, 2013.

(3) For an urban water supplier that supplies, contracts for, or otherwise financially invests in, water from a new local, drought-resilient source of supply, the use of which does not reduce the water available to another legal user of water or the environment, the conservation standard identified in subdivision (c) shall be reduced:

(A) By one (1) percentage point if the supplier's qualifying source of supply is one (1) percent or more but less than two (2) percent of the supplier's total potable water production;

(B) By two (2) percentage points if the supplier's qualifying source of supply is two (2) percent or more but less than three (3) percent of the supplier's total potable water production;

(C) By three (3) percentage points if the supplier's qualifying source of supply is three (3) percent or more but less than four (4) percent of the supplier's total potable water production;

(D) By four (4) percentage points if the supplier's qualifying source of supply is four (4) percent or more but less than five (5) percent of the supplier's total potable water production;

(E) By five (5) percentage points if the supplier's qualifying source of supply is five (5) percent or more but less than six (6) percent of the supplier's total potable water production;

(F) By six (6) percentage points if the supplier's qualifying source of supply is six (6) percent or more but less than seven (7) percent of the supplier's total potable water production;

(G) By seven (7) percentage points if the supplier's qualifying source of supply is seven (7) percent or more but less than eight (8) percent of the supplier's total potable water production;

(H) By eight (8) percentage points if the supplier's qualifying source of supply is eight (8) percent or more of the supplier's total potable water production;

(I) To qualify for this reduction the supplier must certify, and provide documentation to the Board upon request, demonstrating the percent of its total potable water production that comes from a local, drought-resilient source of supply developed after 2013, the supplier's investment in that local, drought-resilient source of supply, and that the use of that supply does not reduce the water available to another legal user of water or the environment. To qualify for this reduction a supplier shall submit the required certification to the Board by March 15, 2016;

(J) Certifications that do not meet the requirements of subdivision (f)(3)(I), including certifications for which documentation does not support that the source of supply is a local, drought-resilient source of supply, the use of which does not reduce the water available to another legal user of water or the environment, will be rejected. Submitting a certification or supporting documentation pursuant to subdivision (f)(3)(F) 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.

(4) No supplier's conservation standard shall drop below eight (8) percent as a consequence of the reductions identified in this subdivision. No reduction pursuant to this subdivision shall be applied to any urban water supplier whose conservation standard is four (4) percent based on subdivision (c)(2).

(fg)(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~~ September 15, 2016, on a form provided by the Board, that either confirms compliance with subdivision (fg)(1)(A) or identifies total potable water production, by month, from ~~June~~ December 2015 through ~~November~~ August, 2015 2016, and total potable water production, by month, for the same months in 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~~Board or an officer or employee of the ~~board~~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.

(c) Orders issued under previous versions of this subdivision shall remain in effect and shall be enforceable as if adopted under this version.

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.