

RESOLUTION NO. SCV-275

**A RESOLUTION OF THE BOARD OF DIRECTORS OF
THE SANTA CLARITA VALLEY WATER AGENCY
DIRECTING THE GENERAL MANAGER TO IMPLEMENT
STAGE 2 OF THE WATER SHORTAGE
CONTINGENCY PLAN AND DECLARE A STAGE 2 WATER SHORTAGE CONDITION
PURSUANT TO ORDINANCE NO. 2**

WHEREAS, the State of California is experiencing unprecedented drought conditions with one hundred percent (100%) of that state experiencing drought, and

WHEREAS, the State Water Project, from which SCV Water receives approximately half of its annual water supply, is critically low; and

WHEREAS, during the 2021/2022 water year, the Santa Clarita Valley recorded both record precipitation in December 2021 and record dry conditions in January and February 2022; and

WHEREAS, the Santa Clarita Valley is currently experiencing Category D2 – Severe Drought hydrological drought conditions; and

WHEREAS, on April 21, 2021, Governor Newsom issued a Drought Emergency Declaration which was extended on both May 10, 2021 and July 9, 2021; and

WHEREAS, on July 8, 2021, Governor Newsom issued Executive Order N-10-21, which urged all Californians to voluntarily reduce water use by 15% compared to 2020 water consumption levels; and

WHEREAS, beginning in September 2021, the State Water Resources Control Board initiated monthly reporting to assess conservation performance statewide, hydrologic region, and urban water supplier; and

WHEREAS, on October 19, 2021, Governor Newsom extended the Drought Emergency Declaration to include all counties in the State of California; and

WHEREAS, on November 16, 2021, the SCV Water Board of Directors enacted Stage 1 of SCV Water's Water Shortage Contingency Plan and the Water Conservation and Water Supply Shortage Ordinance (Ordinance No. 2); and

WHEREAS, on January 4, 2022, the State Water Resources Control Board adopted Resolution No. 2022-0002 which included emergency regulations designed to prevent the unreasonable use of water to promote water conservation; and

WHEREAS, on March 28, 2022, Governor Newsom issued Executive Order N-7-22 which directs the State Water Resources Control Board to, among other actions, consider adopting emergency regulations that require urban water suppliers to implement response actions for a shortage level of up to twenty percent; and

WHEREAS, the Agency has developed a diverse water supply portfolio to achieve water supply and demand balances for both single and consecutive dry year periods; and

WHEREAS, the State Water Project allocation was 5% for calendar year 2021, which required the Agency to utilize its critical and dry year banked storage supplies to offset the low allocation; and

WHEREAS, the State Water Project allocation for calendar year 2022 is currently set at 5%, prolonging the Agency's need to utilize its critical and dry year banked storage supplies to offset the low allocation and;

WHEREAS, the Agency has determined that water supplies are sufficient to meet current unconstrained demands for the 2022 operating year, but recognizes that conserving water would make cost effective supplies available in 2023 should dry conditions persist; and

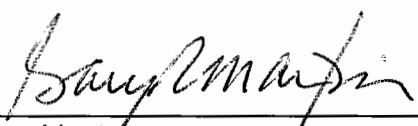
WHEREAS, the Water Shortage Contingency Plan and Water Conservation Ordinance is intended to encourage responsible water use, conserve our water resources and protect the Agency's customers, especially during times of drought and water shortages, the Agency is focused on outreach, communication and education first; and

WHEREAS, the Agency has initiated drought conservation messaging and community engagement to communicate and encourage the need and benefits of voluntary water conservation; and

WHEREAS, SCV Water's water conservation levels are below the Governor's voluntary 15% of 2020 conservation target;

NOW, THEREFORE BE IT RESOLVED, THAT THE BOARD OF DIRECTORS OF THE SANTA CLARITA VALLEY WATER AGENCY DOES HEREBY RESOLVE AS FOLLOWS:

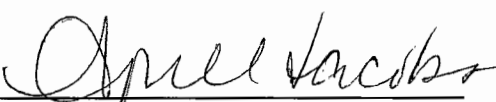
1. A Stage 2 Water Shortage Condition pursuant to the Agency's Water Conservation and Water Supply Shortage Ordinance (Ordinance No.2) is hereby declared.
2. The General Manager is directed to implement Stage 2 of the Agency's Water Shortage Contingency Plan.



President

I, the undersigned, hereby certify: That I am the duly appointed and acting Secretary of the Santa Clarita Valley Water Agency, and that at a special meeting of the Board of Directors of said Agency held on April 26, 2022 the foregoing Resolution No. SCV-275 was duly and regularly adopted by said Board, and that said resolution has not been rescinded or amended since the date of its adoption, and that it is now in full force and effect.

DATED: April 26, 2022



Secretary



ATTACHMENT A

EXECUTIVE DEPARTMENT STATE OF CALIFORNIA

EXECUTIVE ORDER N-10-21

WHEREAS communities across California are experiencing more frequent, prolonged, and severe impacts of climate change including catastrophic wildfires, extreme heat and unprecedentedly dry conditions that threaten the health of our people, habitat for species and our economy; and

WHEREAS severe drought afflicts the American West and increasingly warming temperatures driven by climate change exacerbate harmful drought effects including disruption of drinking water and irrigation supplies, degradation of fish and wildlife habitat, and heightened flammability of wildland vegetation; and

WHEREAS on April 21 and May 10, 2021, I issued proclamations that a state of emergency exists in a total of 41 counties due to severe drought conditions and directed state agencies to take immediate action to preserve critical water supplies and mitigate the effects of drought and ensure the protection of health, safety, and the environment; and

WHEREAS today, I issued a further proclamation of a state of emergency due to drought conditions in nine additional counties (Inyo, Marin, Mono, Monterey, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, and Santa Cruz), and directed state agencies to take further actions to bolster drought resilience and prepare for impacts on communities, businesses, and ecosystems; and

WHEREAS drought conditions present urgent challenges, including the risk of drinking water shortages in communities, greatly increased wildfire activity, diminished water for agricultural production, adverse impacts on fisheries, and additional water scarcity if drought conditions continue into next year; and

WHEREAS agriculture is an important economic driver in California that has made significant investments in irrigation efficiencies such that nearly 70 percent of the nation's farmland using drip and micro-irrigation is located in California, and despite that investment, many agricultural producers are experiencing severe reductions in water supplies and are fallowing land in response to current dry conditions; and

WHEREAS action by Californians now to conserve water and to extend local groundwater and surface water supplies will provide greater resilience if the drought continues in future years; and

WHEREAS during the 2012-2016 drought, Californians did their part to conserve water, with many taking permanent actions that continue to yield benefits; per capita residential water use statewide declined 21 percent between the years 2013 and 2016, and has remained on average 16 percent below 2013 levels as of 2020; and

WHEREAS local water suppliers and communities have made strategic and forward-looking investments in water recycling, stormwater capture and reuse, groundwater storage and other strategies to improve drought resilience; and

WHEREAS there is now a need to augment ongoing water conservation and drought resilience investments with additional action to extend available supplies, protect water reserves in case drought conditions extend to a third year and maintain critical flows for fish and wildlife.

NOW THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes, do hereby issue the following order to become effective immediately.

IT IS HEREBY ORDERED THAT:

- 1) To preserve the State's surface and groundwater supplies and better prepare for the potential for continued dry conditions next year, and to join existing efforts by agricultural water users, public water systems, and governmental agencies to respond to water shortages, I call on all Californians to voluntarily reduce their water use by 15 percent from their 2020 levels. Commonsense measures Californians can undertake to save water and money include:
 - a. Irrigating landscapes more efficiently. As much as 50 percent of residential water use goes to outdoor irrigation, and much of that is wasted due to evaporation, wind, or runoff caused by inefficient irrigation methods and systems. Watering one day less per week, not watering during or immediately after rainfall, watering during the cooler parts of the day and using a weather-based irrigation controller can reduce irrigation water use, saving nearly 8,800 gallons of water per year.
 - b. Running dishwashers and washing machines only when full. Full laundry loads can save 15–45 gallons per load. Full dishwasher cycles can save 5–15 gallons per load.
 - c. Finding and fixing leaks. A leaky faucet that drips at the rate of one drip per second can waste nearly 3,200 gallons per year.
 - d. Installing water-efficient showerheads and taking shorter showers. Keeping showers under five minutes can save 12.5 gallons per shower when using a water-efficient showerhead.
 - e. Using a shut-off nozzle on hoses and taking cars to commercial car washes that use recycled water.

The State Water Resources Control Board (Water Board) shall track and report monthly on the State's progress toward achieving a 15-percent reduction in statewide urban water use as compared to 2020 use.

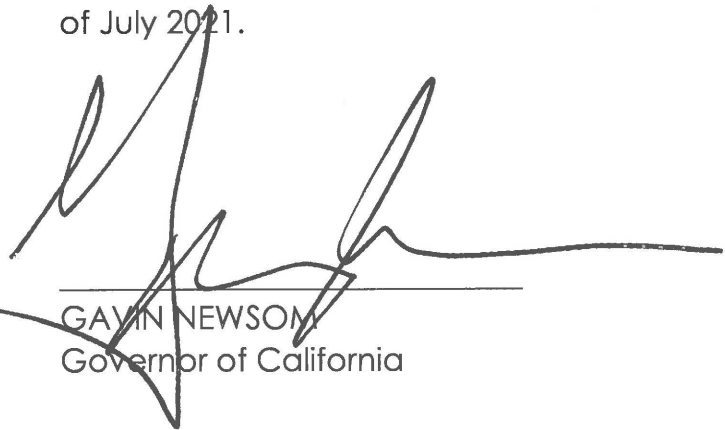
- 2) State agencies, led by the Department of Water Resources and in coordination with local agencies, shall encourage actions by all Californians, whether in their residential, industrial, commercial, agricultural, or institutional use, to reduce water usage, including through the statewide Save Our Water conservation campaign at SaveOurWater.com, which provides simple ways for Californians to reduce water use in their everyday lives.
- 3) The Department of Water Resources shall monitor hydrologic conditions such as cumulative precipitation, reservoir storage levels, soil moisture and other metrics, and the Water Board shall monitor progress on voluntary

conservation as ongoing indicators of water supply risk that may inform future drought response actions.

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

IT IS FURTHER ORDERED that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 8th day of July 2021.



GAVIN NEWSOM
Governor of California



ATTEST:



SHIRLEY N. WEBER, PH.D.
Secretary of State

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PROCLAMATION OF A STATE OF EMERGENCY

WHEREAS climate change continues to intensify the impacts of droughts on our communities, environment, and economy, and California is in a second consecutive year of dry conditions, resulting in drought in all parts of the State and extreme or exceptional drought in most of the State; and

WHEREAS the meteorological summer in California and the rest of the western United States was the hottest on record; and

WHEREAS on April 12, 2021, May 10, 2021, and July 8, 2021, I proclaimed states of emergency to exist in the counties of Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Inyo, Kern, Kings, Lake, Lassen, Madera, Mariposa, Marin, Mendocino, Merced, Modoc, Mono, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, and Yuba, due to severe drought conditions; and

WHEREAS since my July 8, 2021 Proclamation, sustained and extreme high temperatures have increased water loss from reservoirs and streams, increased demands by communities and agriculture, and further depleted California's water supplies; and

WHEREAS the counties of Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Francisco, and Ventura are now experiencing severe drought conditions; and

WHEREAS long-term weather forecasts for the winter rainy season, dire storage conditions of California's largest reservoirs, low moisture content in native vegetation, and parched soils, magnify the likelihood that drought impacts will continue in 2022 and beyond; and

WHEREAS the increasing frequency of multiyear droughts presents a significant risk to California's ability to ensure adequate water supplies for communities, agriculture, and fish and wildlife; and

WHEREAS the most impactful action Californians can take to extend available supplies is to re-double their efforts to voluntarily reduce their water use by 15 percent from their 2020 levels by implementing the commonsense measures identified in operative paragraph 1 of my July 8, 2021 Executive Order N-10-21; and

WHEREAS it is necessary to expeditiously mitigate the effects of the drought conditions to ensure the protection of health, safety, and the environment; and

WHEREAS under Government Code Section 8558(b), I find that the conditions caused by the drought, by reason of their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of any single local government and require the combined forces of a mutual aid region or regions to appropriately respond; and

WHEREAS under Government Code Section 8625(c), I find that local authority is inadequate to cope with the drought conditions; and

WHEREAS to protect public health and safety, it is critical the State take certain immediate actions without undue delay to prepare for and mitigate the effects of the drought conditions, and under Government Code Section 8571, I find that strict compliance with various statutes and regulations specified in this Proclamation would prevent, hinder, or delay the mitigation of the effects of the drought conditions.

NOW THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes, including the California Emergency Services Act, and in particular, Section 8625, **HEREBY PROCLAIM A STATE OF EMERGENCY** to exist in the State due to drought in the remaining counties of Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Francisco, and Ventura, such that the drought state of emergency is now in effect statewide.

IT IS HEREBY ORDERED THAT:

1. All agencies of the state government are to utilize and employ state personnel, equipment, and facilities for the performance of any and all activities consistent with the direction of the Governor's Office of Emergency Services and the State Emergency Plan. Also, to protect their safety, all residents are to obey the direction of emergency officials with regard to this emergency in order to protect their safety.
2. The orders and provisions contained in my April 21, 2021, May 10, 2021, and July 8, 2021 Proclamations remain in full force and effect, except as modified herein. State agencies shall continue to implement all directions from those Proclamations and accelerate implementation where feasible.
3. Operative paragraphs 3, 5, 6, and 10 of my July 8, 2021 Proclamation are withdrawn and replaced with paragraphs 4 through 8 below.
4. Consistent with the policies stated in Water Code Section 1011.5(a), local agencies are encouraged to take actions to coordinate use of their available supplies and to substitute an alternate supply of groundwater from existing groundwater wells for the unused portion of surface water that the local agency is otherwise entitled to use. For actions taken pursuant to this paragraph, the provisions of Chapter 3 (commencing with Section 85225) of Part 3 of Division 35 of the Water Code and regulations adopted pursuant thereto are suspended for any (a) actions taken by state agencies pursuant to this paragraph, (b) actions taken by a local agency where the state agency with primary responsibility for implementing the directive concurs that local action is required, and (c) permits or approvals necessary to carry out actions under (a) or (b). The entities implementing this paragraph shall maintain on their websites a list of all activities or approvals that rely on the suspension of the foregoing Water Code provisions.

5. To support voluntary approaches where hydrology and other conditions allow, the State Water Resources Control Board (Water Board) shall expeditiously consider water transfer requests. For purposes of carrying out this paragraph, the following requirements of the Water Code are suspended:
 - a. Section 1726(d) requirements for written notice and newspaper publication, provided that the Water Board shall post notice on its website and provide notice through electronic subscription services where interested persons can request information about temporary changes; and
 - b. Section 1726(f) requirement of a 30-day comment period, provided that the Water Board shall afford a 15-day comment period.
6. As necessary to assist local governments and for the protection of public health and the environment, state agencies shall enter into contracts to arrange for the procurement of materials, goods, and services necessary to quickly assist with the response to and recovery from the impacts of the drought. Applicable provisions of the Government Code and the Public Contract Code, including but not limited to travel, advertising, and competitive bidding requirements, are suspended to the extent necessary to address the effects of the drought. Approval of the Department of Finance is required prior to the execution of any contract entered into pursuant to this provision.
7. To proactively prevent situations where a community runs out of drinking water, the Water Board, the Department of Water Resources, the Office of Emergency Services, and the Office of Planning and Research shall assist local agencies with identifying acute drinking water shortages in domestic water supplies, and shall work with local agencies in implementing solutions to those water shortages.
8. To preserve the State's surface and groundwater supplies and better prepare for the potential for continued dry conditions next year, local water suppliers are directed to execute their urban Water Shortage Contingency Plans and agricultural Drought Plans at a level appropriate to local conditions that takes into account the possibility of a third consecutive dry year. Suppliers shall ensure that Urban and Agricultural Water Management Plans are up to date and in place.
9. The Water Board may adopt emergency regulations, as it deems necessary, to supplement voluntary conservation by prohibiting certain wasteful water practices. Wasteful water uses include:
 - a. The use of potable water for washing sidewalks, driveways, buildings, structures, patios, parking lots, or other hard-surfaced areas, except in cases where health and safety are at risk.
 - b. The use of potable water that results in flooding or runoff in gutters or streets.

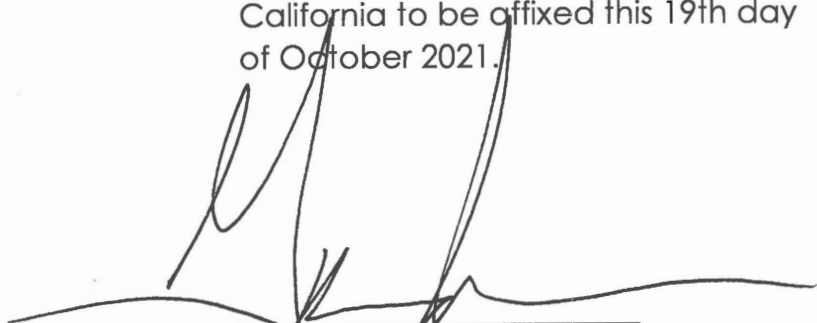
- c. The use of potable water, except with the use of a positive shut-off nozzle, for the individual private washing of motor vehicles.
 - d. The use of water to irrigate turf and ornamental landscapes during and within 48 hours after measurable rainfall of at least one-fourth of one inch of rain.
 - e. The use of potable water for irrigation of ornamental turf on public street medians.
 - f. The use of potable water for street cleaning or construction purposes, unless no other source of water or other method can be used or if necessary, to protect the health and safety of the public.
 - g. The use of potable water for decorative fountains or the filling or topping-off of decorative lakes or ponds, with exceptions for those decorative fountains, lakes, or ponds which utilize recycled water.
10. The California Department of Food and Agriculture, in collaboration with other relevant state agencies, shall evaluate water efficiency measures implemented in California agriculture over the past several years and develop a report with recommendations on how to further increase efficiencies.
11. The Office of Emergency Services shall provide assistance under the authority of the California Disaster Assistance Act, Government Code section 8680 et seq., and California Code of Regulations, title 19, section 2900 et seq., as appropriate to provide for, or in support of, the temporary emergency supply, delivery, or both of drinking water or water for sanitation purposes.
12. For purposes of carrying out or approving any actions contemplated by the directives in operative paragraphs 5, 6, and 9, the environmental review by state agencies required by the California Environmental Quality Act in Public Resources Code, Division 13 (commencing with Section 21000) and regulations adopted pursuant to that Division are hereby suspended to the extent necessary to address the impacts of the drought.

For purposes of carrying out the directive in operative paragraph 4 and 7, for any (a) actions taken by the listed state agencies pursuant to that directive, (b) actions taken by a local agency where the Office of Planning and Research concurs that local action is required, and (c) permits necessary to carry out actions under (a) or (b), Public Resources Code, Division 13 (commencing with Section 21000) and regulations adopted pursuant to that Division are hereby suspended to the extent necessary to address the impacts of the drought. The entities implementing these directives shall maintain on their websites a list of all activities or approvals for which these provisions are suspended.

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

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

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 19th day of October 2021.

A handwritten signature in black ink, appearing to read 'Gavin Newsom', is written over a horizontal line. The signature is stylized and somewhat cursive.

GAVIN NEWSOM
Governor of California

ATTEST:

SHIRLEY N. WEBER, PH.D.
Secretary of State

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ATTACHMENT C

STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2022-0002

TO ADOPT AN EMERGENCY REGULATION TO SUPPLEMENT VOLUNTARY WATER CONSERVATION

WHEREAS:

1. On April 21, May 10, and July 8, 2021, Governor Newsom issued proclamations that a state of emergency exists in a total of 50 counties due to severe drought conditions and directed state agencies to take immediate action to preserve critical water supplies and mitigate the effects of drought and ensure the protection of health, safety, and the environment.
2. On October 19, 2021, Governor Newsom signed a proclamation extending the drought emergency statewide and further urging Californians to reduce their water use.
3. There is no guarantee that winter precipitation will alleviate the current drought conditions.
4. Many Californians have taken bold steps over the years to reduce water use; nevertheless, the severity of the current drought and uncertainty about Water Year 2022 require additional conservation actions from residents and businesses.
5. 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 is water available next year, giving water suppliers the flexibility to manage their systems efficiently. The more water that is conserved now, the less likely it is that a community will experience such dire circumstances or that water rationing will be required.
6. Most Californians use more water outdoors than indoors. 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 would not suffer greatly from receiving a decreased amount of water.

7. Public information and awareness are critical to achieving conservation goals, and the Save Our Water campaign (SaveOurWater.com), 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.
8. SaveWater.CA.Gov is an online tool designed to help save water in communities. This website lets anyone easily report water waste from their phone, tablet, or computer by simply selecting the type of water waste they see, typing in the address where the waste is occurring, and clicking send. These reports are filed directly with the State Water Resources Control Board (State Water Board or Board) and relevant local water supplier.
9. 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.
10. On October 19, 2021, the Governor suspended the environmental review required by the California Environmental Quality Act to allow State Water Board-adopted drought conservation emergency regulations and other actions to take place quickly to respond to emergency conditions.
11. 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.”
12. On November 30, 2021, the State Water Board issued public notice that the State Water Board would consider the adoption of the regulation at the Board’s regularly scheduled January 4, 2022 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.
13. The emergency regulation sets a minimum standard that many communities are already doing more but not everyone is taking these low-cost, easy to implement actions that can save significant amounts of water during a drought emergency.

14. Disadvantaged communities may require assistance in increasing water conservation, and state and local agencies should look for opportunities to provide assistance in promoting water conservation, including but not limited to translation of regulation text and dissemination of water conservation announcements into languages spoken by at least 10 percent of the people who reside in a water supplier's service area, such as in newspaper advertisements, bill inserts, website homepage, social media, and notices in public libraries.
15. The Board directs staff to consider the following in pursuing any enforcement of section 995, subdivision (b)(1)(A)-(F): before imposing monetary penalties, staff shall provide one or more warnings; monetary penalties must be based on an ability to pay determination, consider allowing a payment plan of at least 12 months, and shall not result in a tax lien; and Board enforcement shall not result in shutoff.
16. The Board encourages entities other than Board staff that consider any enforcement of this regulation to apply these same factors identified in resolved paragraph 15. 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 their enforcement discretion in enforcing the regulation, to the extent authorized, and may develop their own progressive enforcement practices to encourage conservation.

THEREFORE BE IT RESOLVED THAT:

1. The State Water Board adopts California Code of Regulations, title 23, section 995, as appended to this resolution as an emergency regulation.
2. State Water Board staff will submit the regulation to the Office of Administrative Law (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 designee may make such changes.

4. This regulation shall remain in effect for one year after filing with the Secretary of State unless the State Water Board determines that it is no longer necessary due to changed conditions or unless the State Water Board renews the regulation due to continued drought conditions, as described in Water Code section 1058.5.
5. The State Water Board directs State Water Board staff to work with the Department of Water Resources and the Save Our Water campaign to disseminate information regarding the emergency regulations.
6. 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. Local agencies are encouraged to develop their own progressive enforcement practices to promote conservation.

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 January 4, 2022.

AYE: Vice Chair Dorene D'Adamo
Board Member Sean Maguire
Board Member Laurel Firestone
Board Member Nichole Morgan

NAY: None

ABSENT: Chair E. Joaquin Esquivel

ABSTAIN: None



Jeanine Townsend
Clerk to the Board

ADOPTED TEXT OF EMERGENCY REGULATION

Title 23. Waters

Division 3. State Water Resources Control Board and Regional Water Quality Control Boards

Chapter 3.5. Urban Water Use Efficiency and Conservation

Article 2. Prevention of Drought Wasteful Water Uses

§ 995. Wasteful and Unreasonable Water Uses.

(a) As used in this section:

(1) "Turf" has the same meaning as in section 491.

(2) "Incidental runoff" means unintended amounts (volume) of runoff, such as unintended, minimal overspray from sprinklers that escapes the area of intended use. Water leaving an intended use area is not considered incidental if it is part of the facility or system design, if it is due to excessive application, if it is due to intentional overflow or application, or if it is due to negligence.

(b)(1) To prevent the unreasonable use of water and to promote water conservation, the use of water is prohibited as identified in this subdivision for the following actions:

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

(B) The use of a hose that dispenses 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;

(C) The use of potable water for washing sidewalks, driveways, buildings, structures, patios, parking lots, or other hard surfaced areas, except in cases where health and safety are at risk;

(D) The use of potable water for street cleaning or construction site preparation purposes, unless no other method can be used or as needed to protect the health and safety of the public;

(E) The use of potable water for decorative fountains or the filling or topping-off of decorative lakes or ponds, with exceptions for those decorative fountains, lakes, or ponds that use pumps to recirculate water and only require refilling to replace evaporative losses;

(F) The application of water to irrigate turf and ornamental landscapes during and within 48 hours after measurable rainfall of at least one fourth of one inch of rain. In determining whether measurable rainfall of at least fourth of one inch of rain occurred in a given area, enforcement may be based on records of the National Weather Service, the closest CIMIS station to the parcel, or any other reliable source of rainfall data available to the entity undertaking enforcement of this subdivision; and

(G) The use of potable water for irrigation of ornamental turf on public street medians.

(2) Notwithstanding subdivision (b)(1), the use of water is not prohibited by this section to the extent necessary to address an immediate health and safety need. This may include, but is not limited to, the use of potable water in a fountain or water feature when required to be potable because human contact is expected to occur.

(c)(1) To prevent the 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, subdivisions (a) and (b) of the Civil Code;

(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; or

(C) Requiring an owner of a separate interest upon which water-efficient landscaping measures have been installed in response to a declared drought emergency, as described in section 4735, subdivisions (c) and (d) of the Civil Code, to reverse or remove the water-efficient landscaping measures upon the conclusion of the state of emergency.

(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 (c)(1) is initiated, each day the proceeding remains pending shall constitute a separate violation of this regulation.

(d) To prevent the unreasonable use of water and to promote water conservation, any city, county, or city and county is prohibited from imposing a fine under any local maintenance ordinance or other relevant ordinance as prohibited by section 8627.7 of the Government Code.

(e) The taking of any action prohibited in subdivision (b), (c) or (d) 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.

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

Authority: Section 1058.5, Water Code.

References: Article X, Section 2, California Constitution; Sections 4080, 4100, 4110, 4150, 4185, and 4735, Civil Code; Section 8627.7, Government Code; Sections 102, 104, 105, 275, 350, 491, and 1122, Water Code; *Light v. State Water Resources Control Board* (2014) 226 Cal.App.4th 1463; *Stanford Vina Ranch Irrigation Co. v. State of California* (2020) 50 Cal.App.5th 976.

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EXECUTIVE ORDER N-7-22

WHEREAS on April 12, 2021, May 10, 2021, July 8, 2021, and October 19, 2021, I proclaimed states of emergency that continue today and exist across all the counties of California, due to extreme and expanding drought conditions; and

WHEREAS climate change continues to intensify the impacts of droughts on our communities, environment, and economy, and California is in a third consecutive year of dry conditions, resulting in continuing drought in all parts of the State; and

WHEREAS the 21st century to date has been characterized by record warmth and predominantly dry conditions, and the 2021 meteorological summer in California and the rest of the western United States was the hottest on record; and

WHEREAS since my October 19, 2021 Proclamation, early rains in October and December 2021 gave way to the driest January and February in recorded history for the watersheds that provide much of California's water supply; and

WHEREAS the ongoing drought will have significant, immediate impacts on communities with vulnerable water supplies, farms that rely on irrigation to grow food and fiber, and fish and wildlife that rely on stream flows and cool water; and

WHEREAS the two largest reservoirs of the Central Valley Project, which supplies water to farms and communities in the Central Valley and the Santa Clara Valley and provides critical cold-water habitat for salmon and other anadromous fish, have water storage levels that are approximately 1.1 million acre-feet below last year's low levels on this date; and

WHEREAS the record-breaking dry period in January and February and the absence of significant rains in March have required the Department of Water Resources to reduce anticipated deliveries from the State Water Project to 5 percent of requested supplies; and

WHEREAS delivery of water by bottle or truck is necessary to protect human safety and public health in those places where water supplies are disrupted; and

WHEREAS groundwater use accounts for 41 percent of the State's total water supply on an average annual basis but as much as 58 percent in a critically dry year, and approximately 85 percent of public water systems rely on groundwater as their primary supply; and

WHEREAS coordination between local entities that approve permits for new groundwater wells and local groundwater sustainability agencies is important to achieving sustainable levels of groundwater in critically overdrafted basins; and

WHEREAS the duration of the drought, especially following a multiyear drought that abated only five years ago, underscores the need for California to redouble near-, medium-, and long-term efforts to adapt its water management and delivery systems to a changing climate, shifting precipitation patterns, and water scarcity; and

WHEREAS the most consequential, immediate action Californians can take to extend available supplies is to voluntarily reduce their water use by 15 percent from their 2020 levels by implementing the commonsense measures identified in operative paragraph 1 of Executive Order N-10-21 (July 8, 2021); and

WHEREAS to protect public health and safety, it is critical the State take certain immediate actions without undue delay to prepare for and mitigate the effects of the drought conditions, and under Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this Proclamation would prevent, hinder, or delay the mitigation of the effects of the drought conditions.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes, including the California Emergency Services Act, and in particular, Government Code sections 8567, 8571, and 8627, do hereby issue the following Order to become effective immediately:

IT IS HEREBY ORDERED THAT:

1. The orders and provisions contained in my April 21, 2021, May 10, 2021, July 8, 2021, and October 19, 2021 Proclamations remain in full force and effect, except as modified by those Proclamations and herein. State agencies shall continue to implement all directions from those Proclamations and accelerate implementation where feasible.
2. To help the State achieve its conservation goals and ensure sufficient water for essential indoor and outdoor use, I call on all Californians to strive to limit summertime water use and to use water more efficiently indoors and out. The statewide Save Our Water conservation campaign at SaveOurWater.com provides simple ways for Californians to reduce water use in their everyday lives. Furthermore, I encourage Californians to understand and track the amount of water they use and measure their progress toward their conservation goals.
3. By May 25, 2022, the State Water Resources Control Board (Water Board) shall consider adopting emergency regulations that include all of the following:
 - a. A requirement that each urban water supplier, as defined in section 10617 of the Water Code, shall submit to the Department of Water Resources a preliminary annual water supply and demand assessment consistent with section 10632.1 of the Water Code no later than June 1, 2022, and submit a final annual water

supply and demand assessment to the Department of Water Resources no later than the deadline set by section 10632.1 of the Water Code;

- b. A requirement that each urban water supplier that has submitted a water shortage contingency plan to the Department of Water Resources implement, at a minimum, the shortage response actions adopted under section 10632 of the Water Code for a shortage level of up to twenty percent (Level 2), by a date to be set by the Water Board; and
- c. A requirement that each urban water supplier that has not submitted a water shortage contingency plan to the Department of Water Resources implement, at a minimum, shortage response actions established by the Water Board, which shall take into consideration model actions that the Department of Water Resources shall develop for urban water supplier water shortage contingency planning for Level 2, by a date to be set by the Water Board.

To further conserve water and improve drought resiliency if the drought lasts beyond this year, I encourage urban water suppliers to conserve more than required by the emergency regulations described in this paragraph and to voluntarily activate more stringent local requirements based on a shortage level of up to thirty percent (Level 3).

- 4. To promote water conservation, the Department of Water Resources shall consult with leaders in the commercial, industrial, and institutional sectors to develop strategies for improving water conservation, including direct technical assistance, financial assistance, and other approaches. By May 25, 2022, the Water Board shall consider adopting emergency regulations defining "non-functional turf" (that is, a definition of turf that is ornamental and not otherwise used for human recreation purposes such as school fields, sports fields, and parks) and banning irrigation of non-functional turf in the commercial, industrial, and institutional sectors except as it may be required to ensure the health of trees and other perennial non-turf plantings.
- 5. In order to maximize the efficient use of water and to preserve water supplies critical to human health and safety and the environment, Public Resources Code, Division 13 (commencing with section 21000) and regulations adopted pursuant to that Division are hereby suspended, with respect to the directives in paragraphs 3 and 4 of this Order and any other projects and activities for the purpose of water conservation to the extent necessary to address the impacts of the drought, and any permits necessary to carry out such projects or activities. Entities that desire to conduct activities under this suspension, other than the directives in paragraphs 3 and 4 of this Order, shall first request that the Secretary of the Natural Resources Agency make a determination that the proposed activities are eligible to be conducted under this suspension. The Secretary shall use sound discretion in applying this Executive Order to ensure that the suspension serves the purpose of accelerating conservation projects that are necessary to address impacts of the drought, while at the same time

protecting public health and the environment. The entities implementing these directives or conducting activities under this suspension shall maintain on their websites a list of all activities or approvals for which these provisions are suspended.

6. To support voluntary approaches to improve fish habitat that would require change petitions under Water Code section 1707 and either Water Code sections 1425 through 1432 or Water Code sections 1725 through 1732, and where the primary purpose is to improve conditions for fish, the Water Board shall expeditiously consider petitions that add a fish and wildlife beneficial use or point of diversion and place of storage to improve conditions for anadromous fish. California Code of Regulations, title 23, section 1064, subdivisions (a)(1)(A)(i)-(ii) are suspended with respect to any petition that is subject to this paragraph.
7. To facilitate the hauling of water for domestic use by local communities and domestic water users threatened with the loss of water supply or degraded water quality resulting from drought, any ordinance, regulation, prohibition, policy, or requirement of any kind adopted by a public agency that prohibits the hauling of water out of the water's basin of origin or a public agency's jurisdiction is hereby suspended. The suspension authorized pursuant to this paragraph shall be limited to the hauling of water by truck or bottle to be used for human consumption, cooking, or sanitation in communities or residences threatened with the loss of affordable safe drinking water. Nothing in this paragraph limits any public health or safety requirement to ensure the safety of hauled water.
8. The Water Board shall expand inspections to determine whether illegal diversions or wasteful or unreasonable use of water are occurring and bring enforcement actions against illegal diverters and those engaging in the wasteful and unreasonable use of water. When access is not granted by a property owner, the Water Board may obtain an inspection warrant pursuant to the procedures set forth in Title 13 (commencing with section 1822.50) of Part 3 of the Code of Civil Procedure for the purposes of conducting an inspection pursuant to this directive.
9. To protect health, safety, and the environment during this drought emergency, a county, city, or other public agency shall not:
 - a. Approve a permit for a new groundwater well or for alteration of an existing well in a basin subject to the Sustainable Groundwater Management Act and classified as medium- or high-priority without first obtaining written verification from a Groundwater Sustainability Agency managing the basin or area of the basin where the well is proposed to be located that groundwater extraction by the proposed well would not be inconsistent with any sustainable groundwater management program established in any applicable Groundwater Sustainability Plan adopted by that Groundwater Sustainability

Agency and would not decrease the likelihood of achieving a sustainability goal for the basin covered by such a plan; or

- b. Issue a permit for a new groundwater well or for alteration of an existing well without first determining that extraction of groundwater from the proposed well is (1) not likely to interfere with the production and functioning of existing nearby wells, and (2) not likely to cause subsidence that would adversely impact or damage nearby infrastructure.

This paragraph shall not apply to permits for wells that will provide less than two acre-feet per year of groundwater for individual domestic users, or that will exclusively provide groundwater to public water supply systems as defined in section 116275 of the Health and Safety Code.

10. To address household or small community drinking water shortages dependent upon groundwater wells that have failed due to drought conditions, the Department of Water Resources shall work with other state agencies to investigate expedited regulatory pathways to modify, repair, or reconstruct failed household or small community or public supply wells, while recognizing the need to ensure the sustainability of such wells as provided for in paragraph 9.
11. State agencies shall collaborate with tribes and federal, regional, and local agencies on actions related to promoting groundwater recharge and increasing storage.
12. To help advance groundwater recharge projects, and to demonstrate the feasibility of projects that can use available high water flows to recharge local groundwater while minimizing flood risks, the Water Board and Regional Water Quality Control Boards shall prioritize water right permits, water quality certifications, waste discharge requirements, and conditional waivers of waste discharge requirements to accelerate approvals for projects that enhance the ability of a local or state agency to capture high precipitation events for local storage or recharge, consistent with water right priorities and protections for fish and wildlife. For the purposes of carrying out this paragraph, Division 13 (commencing with section 21000) of the Public Resources Code and regulations adopted pursuant to that Division, and Chapter 3 (commencing with section 85225) of Part 3 of Division 35 of the Water Code and regulations adopted pursuant thereto are hereby suspended to the extent necessary to address the impacts of the drought. This suspension applies to (a) any actions taken by state agencies, (b) any actions taken by local agencies where the state agency with primary responsibility for the implementation of the directives concurs that local action is required, and (c) permits necessary to carry out actions under (a) or (b). The entities implementing these directives shall maintain on their websites a list of all activities or approvals for which these provisions are suspended.
13. With respect to recharge projects under either Flood-Managed Aquifer Recharge or the Department of Water Resources Sustainable

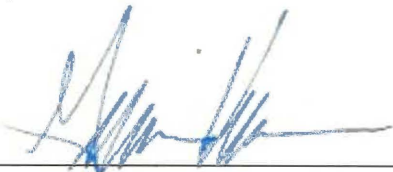
Groundwater Management Grant Program occurring on open and working lands to replenish and store water in groundwater basins that will help mitigate groundwater conditions impacted by drought, for any (a) actions taken by state agencies, (b) actions taken by a local agency where the Department of Water Resources concurs that local action is required, and (c) permits necessary to carry out actions under (a) or (b), Public Resources Code, Division 13 (commencing with section 21000) and regulations adopted pursuant to that Division are hereby suspended to the extent necessary to address the impacts of the drought. The entities implementing these directives shall maintain on their websites a list of all activities or approvals for which these provisions are suspended.

14. To increase resilience of state water supplies during prolonged drought conditions, the Department of Water Resources shall prepare for the potential creation and implementation of a multi-year transfer program pilot project for the purpose of acquiring water from willing partners and storing and conveying water to areas of need.
15. By April 15, 2022, state agencies shall submit to the Department of Finance for my consideration proposals to mitigate the worsening effects of severe drought, including emergency assistance to communities and households and others facing water shortages as a result of the drought, facilitation of groundwater recharge and wastewater recycling, improvements in water use efficiency, protection of fish and wildlife, mitigation of drought-related economic or water-supply disruption, and other potential investments to support short- and long-term drought response.

IT IS FURTHER ORDERED that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

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

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 28th day of March 2022.



GAVIN NEWSOM
Governor of California

ATTEST:

SHIRLEY N. WEBER, PH.D.
Secretary of State