

**DEPARTMENT OF FORESTRY AND FIRE PROTECTION**

P. O. Box 944246  
SACRAMENTO, CA 94244-2460  
(919) 853-7772  
Website: [www.fire.ca.gov](http://www.fire.ca.gov)



May 6, 2014

Dr. Keith Gilless, Chairman  
State Board of Forestry and Fire Protection  
P. O. Box 944246  
Sacramento, CA 94244-2460

Re: Emergency Forest Practice Water Drafting Regulations in response to  
Governor Brown's Drought Proclamations

Dear Chairman Gilless:

The California Department of Forestry and Fire Protection (CAL FIRE) requests that the Board consider use of the Emergency rulemaking process as defined by the Office of Administrative Law (OAL) to address potential impacts to drinking water and other beneficial uses of water related to timber operations, congruent with Governor Brown's Emergency Drought Proclamations (Proclamations No. 1-17-2014, and 4-25-2014).

More specifically, the Department would recommend the Board to adopt 14 CCR § 916.9(r) statewide, at least during the period of declared drought where timber operations involving water drafting may result in significant adverse impacts outside of watersheds with listed anadromous salmonids.

Staff will be available to discuss this proposal at the upcoming meeting in Riverside, and can provide staff support to assist in developing a rule plead if necessary.

Sincerely,

A handwritten signature in blue ink, appearing to read "Duane Shintaku".

**DUANE SHINTAKU**  
Deputy Director  
Resource Management

cc Ken Pimlott, Director

**FPC 3.0**

# Executive Department

## State of California

### A PROCLAMATION OF A CONTINUED STATE OF EMERGENCY

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

**WHEREAS** state government has taken expedited actions as directed in that Proclamation to minimize harm from the drought; and

**WHEREAS** California's water supplies continue to be severely depleted despite a limited amount of rain and snowfall since January, with very limited snowpack in the Sierra Nevada mountains, decreased water levels in California's reservoirs, and reduced flows in the state's rivers; and

**WHEREAS** drought conditions have persisted for the last three years and the duration of this drought is unknown; and

**WHEREAS** the severe drought conditions continue to present urgent challenges: water shortages in communities across the state, greatly increased wildfire activity, diminished water for agricultural production, degraded habitat for many fish and wildlife species, threat of saltwater contamination of large fresh water supplies conveyed through the Sacramento-San Joaquin Bay Delta, and additional water scarcity if drought conditions continue into 2015; and

**WHEREAS** additional expedited actions are needed to reduce the harmful impacts from the drought as the state heads into several months of typically dry conditions; and

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

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

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

**NOW, THEREFORE, I, EDMUND G. BROWN JR.**, Governor of the State of California, in accordance with the authority vested in me by the Constitution and statutes of the State of California, including the Emergency Services Act and in particular Government Code section 8567, do hereby issue this Executive Order, effective immediately, to mitigate the effects of the drought conditions upon the people and property within the State of California.

#### IT IS HEREBY ORDERED THAT:

1. The orders and provisions contained in Proclamation No. 1-17-2014, dated January 17, 2014, remain in full force and effect except as modified herein.
2. The Department of Water Resources and the State Water Resources Control Board (Water Board) will immediately and expeditiously process requests to move water to areas of need, including requests involving voluntary water transfers, forbearance agreements, water exchanges, or other means. If necessary, the Department will request that the Water Board consider changes to water right permits to enable such voluntary movements of water.

OFFICE OF THE GOVERNOR  
STATE OF CALIFORNIA

3. Recognizing the tremendous importance of conserving water during this drought, all California residents should refrain from wasting water:
  - a. Avoid using water to clean sidewalks, driveways, parking lots and other hardscapes.
  - b. Turn off fountains and other decorative water features unless recycled or grey water is available.
  - c. Limit vehicle washing at home by patronizing local carwashes that use recycled water.
  - d. Limit outdoor watering of lawns and landscaping to no more than two times a week.

Recreational facilities, such as city parks and golf courses, and large institutional complexes, such as schools, business parks and campuses, should immediately implement water reduction plans to reduce the use of potable water for outdoor irrigation.

Commercial establishments such as hotel and restaurants should take steps to reduce water usage and increase public awareness of the drought through measures such as offering drinking water only upon request and providing customers with options to avoid daily washing of towels or sheets.

Professional sports facilities, such as basketball arenas, football, soccer, and baseball stadiums, and hockey rinks should reduce water usage and increase public awareness of the drought by reducing the use of potable water for outdoor irrigation and encouraging conservation by spectators.

The Water Board shall direct urban water suppliers that are not already implementing drought response plans to limit outdoor irrigation and other wasteful water practices such as those identified in this Executive Order. The Water Board will request by June 15 an update from urban water agencies on their actions to reduce water usage and the effectiveness of these efforts. The Water Board is directed to adopt emergency regulations as it deems necessary, pursuant to Water Code section 1058.5, to implement this directive.

Californians can learn more about conserving water from the Save Our Water campaign ([SaveOurH2O.org](http://SaveOurH2O.org)).

4. Homeowners Associations (commonly known as HOAs) have reportedly fined or threatened to fine homeowners who comply with water conservation measures adopted by a public agency or private water company. To prevent this practice, pursuant to Government Code section 8567, I order 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, any provision of Division 4, Part 5 (commencing with section 4000) of the Civil Code notwithstanding.
5. All state agencies that distribute funding for projects that impact water resources, including groundwater resources, will require recipients of future financial assistance to have appropriate conservation and efficiency programs in place.
6. The Department of Fish and Wildlife will immediately implement monitoring of winter-run Chinook salmon in the Sacramento River and its tributaries, as well as several runs of salmon and species of smelt in the Delta as described in the April 8, 2014 Drought Operations Plan.
7. The Department of Fish and Wildlife will implement projects that respond to drought conditions through habitat restoration and through water infrastructure projects on property owned or managed by the Department of Fish and Wildlife or the

Department of Water Resources for the benefit of fish and wildlife impacted by the drought.

8. The Department of Fish and Wildlife will work with other state and federal agencies and with landowners in priority watersheds to protect threatened and endangered species and species of special concern and maximize the beneficial uses of scarce water supplies, including employment of voluntary agreements to secure instream flows, relocation of members of those species, or through other measures.
9. The Department of Water Resources will expedite the consideration and, where appropriate, the implementation, of pump-back delivery of water through the State Water Project on behalf of water districts.
10. The Water Board will adopt statewide general waste discharge requirements to facilitate the use of treated wastewater that meets standards set by the Department of Public Health, in order to reduce demand on potable water supplies.
11. The Department of Water Resources will conduct intensive outreach and provide technical assistance to local agencies in order to increase groundwater monitoring in areas where the drought has significant impacts, and develop updated contour maps where new data becomes available in order to more accurately capture changing groundwater levels. The Department will provide a public update by November 30 that identifies groundwater basins with water shortages, details remaining gaps in groundwater monitoring, and updates its monitoring of land subsidence and agricultural land fallowing.
12. The California Department of Public Health, the Office of Emergency Services, and the Office of Planning and Research will assist local agencies that the Department of Public Health has identified as vulnerable to acute drinking water shortages in implementing solutions to those water shortages.
13. The Department of Water Resources and the Water Board, in coordination with other state agencies, will provide appropriate assistance to public agencies or private water companies in establishing temporary water supply connections to mitigate effects of the drought.
14. For the protection of health, safety, and the environment, CAL FIRE, the Office of Emergency Services, the Department of Water Resources, and the Department of Public Health, where appropriate, may enter into contracts and arrangements for the procurement of materials, goods, and services necessary to quickly mitigate the effects of the drought.
15. Pursuant to the drought legislation I signed into law on March 1, 2014, by July 1, 2014, the California Department of Food and Agriculture, in consultation with the Department of Water Resources and Water Board, will establish and implement a program to provide financial incentives to agricultural operations to invest in water irrigation treatment and distribution systems that reduce water and energy use, augment supply, and increase water and energy efficiency in agricultural applications.
16. To assist landowners meet their responsibilities for removing dead, dying and diseased trees and to help landowners clear other trees and plants close to structures that increase fire danger, certain noticing requirements are suspended for these activities. Specifically, the requirement that any person who conducts timber operations pursuant to the exemptions in Title California Code of Regulations sections 1038 (b) and (c) submit notices to CAL FIRE under the provisions of Title 14, California Code of Regulations, section 1038.2 is hereby suspended. Timber operations pursuant to sections 1038(b) and (c) may immediately commence operations upon submission of the required notice to CAL FIRE and without a copy of the Director's notice of acceptance at the operating site. All other provisions of these regulations will remain in effect.

17. The Water Board will adopt and implement emergency regulations pursuant to Water Code section 1058.5, as it deems necessary to prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of water, to promote water recycling or water conservation, and to require curtailment of diversions when water is not available under the diverter's priority of right.
18. In order to ensure that equipment and services necessary for drought response can be procured quickly, the provisions of the Government Code and the Public Contract Code applicable to state contracts, including, but not limited to, advertising and competitive bidding requirements, are hereby suspended for directives 7 and 14. Approval by the Department of Finance is required prior to the execution of any contract entered into pursuant to these directives.
19. For several actions called for in this proclamation, environmental review required by the California Environmental Quality Act is suspended to allow these actions to take place as quickly as possible. Specifically, for actions taken by state agencies pursuant to directives 2, 3, 6–10, 13, 15, and 17, for all actions taken pursuant to directive 12 when the Office of Planning and Research concurs that local action is required, and for all necessary permits needed to implement these respective actions, Division 13 (commencing with section 21000) of the Public Resources Code and regulations adopted pursuant to that Division are hereby suspended. The entities implementing these directives will maintain on their websites a list of the activities or approvals for which these provisions are suspended. This suspension and that provided in paragraph 9 of the January 17, 2014 Proclamation will expire on December 31, 2014, except that actions started prior to that date shall not be subject to Division 13 for the time required to complete them.
20. For several actions called for in this proclamation, certain regulatory requirements of the Water Code are suspended to allow these actions to take place as quickly as possible. Specifically, for actions taken pursuant to directive 2, section 13247 of the Water Code is suspended. The 30-day comment period provided in section 1726(f) of the Water Code is also suspended for actions taken pursuant to directive 2, but the Water Board will provide for a 15-day comment period. For actions taken by state agencies pursuant to directives 6 and 7, Chapter 3 of Part 3 (commencing with section 85225) of the Water Code is suspended. The entities implementing these directives will maintain on their websites a list of the activities or approvals for which these provisions are suspended.

**I FURTHER DIRECT** that as soon as hereafter possible, this Proclamation shall be filed in the Office of the Secretary of State and that widespread publicity and notice be given to 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 25th day of April, 2014



*Edmund G. Brown Jr.*  
EDMUND G. BROWN JR.  
Governor of California

ATTEST:

*Debra Bowen*  
DEBRA BOWEN  
Secretary of State

FOR IMMEDIATE RELEASE:  
Friday, April 25, 2014

Contact: Governor's Press Office  
(916) 445-4571

## Governor Brown Issues Executive Order to Redouble State Drought Actions

LOS ANGELES – With California’s driest months ahead, Governor Edmund G. Brown Jr. today issued an executive order 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 driest months are still to come in California and extreme drought conditions will get worse,” said Governor Brown. “This order cuts red tape to help get water to farmers more quickly, ensure communities have safe drinking water, protect vulnerable species and prepare for an extreme fire season. I call on every city, every community, every Californian to conserve water in every way possible.”

In January, the Governor declared a drought [state of emergency](#). Since then, state water officials say that reservoirs, rainfall totals and the snowpack remain critically low. Current electronic readings show the snowpack’s statewide water content at just [16 percent of average](#).

In the order, Governor Brown directs the Department of Water Resources and the State Water Resources Control Board to expedite approvals of voluntary water transfers to assist farmers. He also directs the California Department of Fish and Wildlife to accelerate monitoring of drought impacts on winter-run Chinook salmon in the Sacramento River and its tributaries, and to execute habitat restoration projects that will help fish weather the on-going drought.

To respond to the increased threat of wildfire season, the order streamlines contracting rules for the Governor’s Office of Emergency Services and CALFIRE for equipment purchases and enables landowners to quickly clear brush and dead, dying or diseased trees that increase fire danger.

The order also calls on Californians and California businesses to take specific actions to avoid wasting water, including limiting lawn watering and car washing; recommends that schools, parks and golf courses limit the use of potable water for irrigation; and asks that hotels and restaurants give customers options to conserve water by only serving water upon request and other measures. The order also prevents homeowner associations from fining residents that limit their lawn watering and take other conservation measures.

The order provides a limited waiver of the California Environmental Quality Act for several actions that will limit harm from the drought. This waiver will enable these urgently needed actions to take place quickly and will remain in place through the end of 2014.

Last December, the Governor formed a [Drought Task Force](#) to closely manage precious water supplies, to expand water conservation wherever possible and to quickly respond to emerging drought impacts throughout the state. In May 2013, Governor Brown issued an [Executive Order](#) to direct state water officials to expedite the review and processing of voluntary transfers of water.

Governor Brown has called on all Californians to reduce their water use by 20 percent – visit [SaveOurH2O.org](#) to find out how everyone can do their part, and visit [Drought.CA.Gov](#) to learn more about how California is dealing with the effects of the drought.

The text of the executive order is below:

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**WHEREAS** state government has taken expedited actions as directed in that Proclamation to minimize harm from the drought; and

**WHEREAS** California's water supplies continue to be severely depleted despite a limited amount of rain and snowfall since January, with very limited snowpack in the Sierra Nevada mountains, decreased water levels in California's reservoirs, and reduced flows in the state's rivers; and

**WHEREAS** drought conditions have persisted for the last three years and the duration of this drought is unknown; and

**WHEREAS** the severe drought conditions continue to present urgent challenges: water shortages in communities across the state, greatly increased wildfire activity, diminished water for agricultural production, degraded habitat for many fish and wildlife species, threat of saltwater contamination of large fresh water supplies conveyed through the Sacramento-San Joaquin Bay Delta, and additional water scarcity if drought conditions continue into 2015; and

**WHEREAS** additional expedited actions are needed to reduce the harmful impacts from the drought as the state heads into several months of typically dry conditions; and

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

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

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

**NOW, THEREFORE, I, EDMUND G. BROWN JR.,** Governor of the State of California, in accordance with the authority vested in me by the Constitution and statutes of the State of California, including the Emergency Services Act and in particular Government Code section 8567, do hereby issue this Executive Order, effective immediately, to mitigate the effects of the drought conditions upon the people and property within the State of California.

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3. Recognizing the tremendous importance of conserving water during this drought, all California residents should refrain from wasting water:

- a. Avoid using water to clean sidewalks, driveways, parking lots and other hardscapes.
- b. Turn off fountains and other decorative water features unless recycled or grey water is available.
- c. Limit vehicle washing at home by patronizing local carwashes that use recycled water.
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4. Homeowners Associations (commonly known as HOAs) have reportedly fined or threatened to fine homeowners who comply with water conservation measures adopted by a public agency or private water company. To prevent this practice, pursuant to Government Code section 8567, I order 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, any provision of Division 4, Part 5 (commencing with section 4000) of the Civil Code notwithstanding.

5. All state agencies that distribute funding for projects that impact water resources, including groundwater resources, will require recipients of future financial assistance to have appropriate conservation and efficiency programs in place.

6. The Department of Fish and Wildlife will immediately implement monitoring of winter-run Chinook salmon in the Sacramento River and its tributaries, as well as several runs of salmon and species of smelt in the Delta as described in the April 8, 2014 Drought Operations Plan.

7. The Department of Fish and Wildlife will implement projects that respond to drought conditions through habitat restoration and through water infrastructure projects on property owned or managed by the Department of Fish and Wildlife or the Department of Water Resources for the benefit of fish and wildlife impacted by the drought.

8. The Department of Fish and Wildlife will work with other state and federal agencies and with landowners in priority watersheds to protect threatened and endangered species and species of special concern and maximize the beneficial uses of scarce water supplies, including employment of voluntary agreements to secure instream flows, relocation of members of those species, or through other measures.

9. The Department of Water Resources will expedite the consideration and, where appropriate, the implementation, of pump-back delivery of water through the State Water Project on behalf of water districts.
10. The Water Board will adopt statewide general waste discharge requirements to facilitate the use of treated wastewater that meets standards set by the Department of Public Health, in order to reduce demand on potable water supplies.
11. The Department of Water Resources will conduct intensive outreach and provide technical assistance to local agencies in order to increase groundwater monitoring in areas where the drought has significant impacts, and develop updated contour maps where new data becomes available in order to more accurately capture changing groundwater levels. The Department will provide a public update by November 30 that identifies groundwater basins with water shortages, details remaining gaps in groundwater monitoring, and updates its monitoring of land subsidence and agricultural land fallowing.
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13. The Department of Water Resources and the Water Board, in coordination with other state agencies, will provide appropriate assistance to public agencies or private water companies in establishing temporary water supply connections to mitigate effects of the drought.
14. For the protection of health, safety, and the environment, CAL FIRE, the Office of Emergency Services, the Department of Water Resources, and the Department of Public Health, where appropriate, may enter into contracts and arrangements for the procurement of materials, goods, and services necessary to quickly mitigate the effects of the drought.
15. Pursuant to the drought legislation I signed into law on March 1, 2014, by July 1, 2014, the California Department of Food and Agriculture, in consultation with the Department of Water Resources and Water Board, will establish and implement a program to provide financial incentives to agricultural operations to invest in water irrigation treatment and distribution systems that reduce water and energy use, augment supply, and increase water and energy efficiency in agricultural applications.
16. To assist landowners meet their responsibilities for removing dead, dying and diseased trees and to help landowners clear other trees and plants close to structures that increase fire danger, certain noticing requirements are suspended for these activities. Specifically, the requirement that any person who conducts timber operations pursuant to the exemptions in Title 14, California Code of Regulations sections 1038 (b) and (c) submit notices to CAL FIRE under the provisions of Title 14, California Code of Regulations, section 1038.2 is hereby suspended. Timber operations pursuant to sections 1038(b) and (c) may immediately commence operations upon submission of the required notice to CAL FIRE and without a copy of the Director's notice of acceptance at the operating site. All other provisions of these regulations will remain in effect.
17. The Water Board will adopt and implement emergency regulations pursuant to Water Code section 1058.5, as it deems necessary to prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of water, to promote water recycling or water conservation, and to require curtailment of diversions when water is not available under the diverter's priority of right.
18. In order to ensure that equipment and services necessary for drought response can be procured quickly, the provisions of the Government Code and the Public Contract Code applicable to state contracts, including, but not limited to, advertising and competitive bidding requirements, are hereby suspended for directives 7 and 14. Approval by the Department of Finance is required prior to the execution of any contract entered into pursuant to these directives.

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

20. For several actions called for in this proclamation, certain regulatory requirements of the Water Code are suspended to allow these actions to take place as quickly as possible. Specifically, for actions taken pursuant to directive 2, section 13247 of the Water Code is suspended. The 30-day comment period provided in section 1726(f) of the Water Code is also suspended for actions taken pursuant to directive 2, but the Water Board will provide for a 15-day comment period. For actions taken by state agencies pursuant to directives 6 and 7, Chapter 3 of Part 3 (commencing with section 85225) of the Water Code is suspended. The entities implementing these directives will maintain on their websites a list of the activities or approvals for which these provisions are suspended.

**I FURTHER DIRECT** that as soon as hereafter possible, this Proclamation shall be filed in the Office of the Secretary of State and that widespread publicity and notice be given to 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 25th day of April, 2014

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EDMUND G. BROWN JR.  
Governor of California

ATTEST:

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DEBRA BOWEN  
Secretary of State

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1  
2 **Board of Forestry and Fire Protection**

3 **“Water Drafting Emergency Regulations, 2014”**

4 **Title 14 of the California Code of Regulations (14 CCR),**

5 **Division 1.5, Chapter 4, Subchapters 4, 5, & 6, Article 6**

6  
7 **AMEND:**

8 **§ 916.2 [936.2, 956.2] Protection of the Beneficial Uses of Water and Riparian**  
9 **Functions**

10  
11 (d) **Water drafting** - Water drafting for timber operations shall:

12 (1) Comply with Fish and Game Code Section 1600, et seq.

13 (A) Timber operations conducted under a Fish and Game Code  
14 Section 1600 master or long-term agreement that includes water drafting may provide  
15 proof of such coverage for compliance with this paragraph.

16 (2) Describe the water drafting site conditions and proposed water  
17 drafting activity in the plan, including:

18 (A) a general description of the conditions and proposed water  
19 drafting;

20 (B) a map showing proposed water drafting locations;

21 (C) the watercourse classification;

22 (D) the drafting parameters including the months the site is  
23 proposed for use; estimated total volume needed per day; estimated maximum  
24 instantaneous drafting rate and filling time; and disclosure of other water drafting  
25 activities in the same watershed;

