

STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD

**OFFICE OF ENFORCEMENT**

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**ALTERNATIVE COMPLIANCE ORDER**

In the Matter of Urban Water Conservation by  
**City of Livingston**

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1. On January 17, 2014, Governor Edmund G. Brown Jr. (Governor Brown) issued Proclamation No. 1-17-2014 (Proclamation), declaring a State of Emergency to exist in California under the Emergency Services Act due to severe drought conditions. The Proclamation, among other things, called on all Californians to reduce their water usage by 20 percent.
2. On April 25, 2014, Governor Brown issued a Proclamation of a Continued State of Emergency due to drought conditions, based on the need to strengthen the state's ability to manage water and habitat effectively in drought conditions.
3. On April 1, 2015, Governor Brown issued Executive Order B-29-15 (Executive Order) to strengthen the state's ability to manage water and habitat effectively in drought conditions. The Executive Order calls on all Californians to redouble their efforts to conserve water, and directs the State Water Resources Control Board (State Water Board) to impose restrictions on urban water suppliers to achieve a statewide 25 percent reduction in potable urban water usage through February 2016. The Executive Order further requires commercial industrial and institutional users to implement water efficiency measures, prohibits irrigation with potable water of ornamental turf in public street medians and prohibits irrigation with potable water outside newly constructed homes and buildings that is not delivered by drip or microspray systems.
4. On May 5, 2015, the State Water Board adopted Resolution 2015-0032, an Emergency Regulation for Statewide Urban Water Conservation (Emergency Regulation) pursuant to Water Code section 1058.5. The Emergency Regulation adds a new section to title 23 of the California Code of Regulations intended to safeguard urban water supplies in the event of continued drought, minimize the potential for waste and unreasonable use of water, and achieve the 25 percent statewide potable water usage reduction ordered by Governor Brown in the Executive Order. The Emergency Regulation was approved by the Office of Administrative Law and became effective on May 18, 2015.
5. The Emergency Regulation requires each urban water supplier to "reduce its total potable water production by the percentage identified as its conservation standard." California Code Regulations, title 23, section 865(c)(1).
6. Section 865(b)(2) requires urban water suppliers to prepare and submit a monitoring report to the State Water Board by the 15<sup>th</sup> of each month detailing the total amount of potable water produced compared to the amount produced in the same calendar month in 2013.
7. Section 866(a) allows the Executive Director of the State Water board, or the Executive Director's designee, to issue Conservation Orders requiring additional actions by the supplier to come into compliance with its conservation standard. Section 866(b) allows the Executive Director of the State Water Board, or the Executive Director's designee, to issue orders requesting information from the supplier concerning water production, water use and/or water conservation. State Water Board Executive Director Thomas Howard has delegated authority under Sections 866(b) to State

Water Board Chief Deputy Director Caren Trgovcich, who in turn has delegated these authorities to Director of the State Water Board's Office of Enforcement Cris Carrigan.

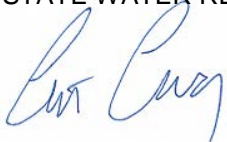
8. If an urban water supplier believes that the applicable conservation standard is unachievable due to firm commercial and industrial water use and residential use reductions that would affect public health and safety, Paragraph 16 of Resolution 2015-0032 allows an urban water suppliers to submit a request, accompanied by supporting information or documentation, for alternate enforceable methods of compliance with the conservation standard.
9. The drought conditions that formed the bases for the Executive Order and Emergency Regulations continue to exist and will likely continue to exist for the foreseeable future.
10. The City of Livingston (the City) has a conservation target, pursuant to Section 865(c), of 32% savings over its water usage in 2013. The City is cumulatively 28.9% behind its conservation standard.
11. On July 29, 2015 the State Water Board Office of Enforcement issued an informational order pursuant to its authority outlined in Section 866(b) of the Emergency Regulations, to determine what actions the City had taken to comply with its conservation standard.
12. On August 10, 2015 the City met with State Water Board Staff from the Office of Enforcement to review its response to the information order, discuss its water conservation program, and identify areas of potential water use savings.
13. On August 14, 2015 the City submitted a request for alternative compliance. After reviewing the documentation submitted, the State Water Board has determined that an Alternative Compliance Order is warranted. This Order is issued under Section 866(a).
14. In lieu of meeting the applicable conservation standard, the State Water Board mandates that the City take the specific water conservation actions described below.
15. Recipients of Alternative Compliance Orders pursuant to Resolution 2015-0032 may petition the State Water Board for reconsideration. (Water Code § 1122; 23 CCR §§ 768 et seq., 866(a)(2).)

**IT IS HEREBY ORDERED:**

1. This Order is effective on the date shown below. All submittal requirements are based on the effective date of this Order.
2. The City shall:
  - (A) Display three educational banners in strategic locations to increase public awareness of water conservation measures by September 18, 2015.
  - (B) Modify its website to include information on water conservation and current restrictions including but not limited to the prohibited water uses in the State Water Board's May 5, 2015 Emergency Regulation, and the City's limits on outdoor irrigation.
  - (C) Distribute water conservation materials at its booth at the Downtown Street Fair every Thursday for the next six months.
  - (D) Explore water conservation grant programs administered by the Department of Water Resources and the California Energy Commission to incentivize replacement of turf, toilets, and other fixtures.
  - (E) Investigate automation measures to manage code enforcement of residential watering restrictions.

- (F) Explore the addition of staff to support water efficiency code enforcement programs, including part time employees, interns and volunteers.
  - (G) Immediately contact PG&E to explore partnership opportunities for low-income assistance and other energy efficiency incentives for replacement of appliances and fixtures.
  - (H) Develop a plan for continued engagement with Foster Farms to maximize water efficiency at the Livingston Complex by September 30, 2015. The plan will include, but is not limited to, a timetable for implementation, milestones, and specific efforts that will be taken to work with Foster Farms in the following areas:
    - i) Recycled wastewater
    - ii) Process efficiency programs
    - iii) Fixtures and landscaping.
  - (I) Within 30 days identify the top 25 CII users other than Foster Farms and develop a plan for offering water use audits to those users.
3. The City shall continue to report the monthly conservation data required for all water suppliers pursuant to Section 865(b)(2) of the Emergency Regulation.
  4. The City shall develop and submit a report by September 15, 2015, and every month afterward until February 15, 2016, detailing the previous month's efforts to comply with each of the mandates listed above in Section 2. The report shall be submitted via e-mail to Matthew Buffleben, at [Matthew.Buffleben@waterboards.ca.gov](mailto:Matthew.Buffleben@waterboards.ca.gov) no later than the 15th of the month, for every month within the reporting period.
  5. The City is required to take the actions mandated above. Failure to comply with this Order subjects the party to enforcement action including, but not limited to, civil liability of up to \$500 per day for each day the violation continues pursuant to Water Code section 1058.5.
  6. Reservation of Enforcement Authority and Discretion: Nothing in this Order is intended to or shall be construed to limit or preclude the State Water Board from exercising its authority under any statute, regulation, ordinance, or other law, including, but not limited to, the authority to bring enforcement against water suppliers who are in violation of Water Code section 1052, the Emergency Regulations or any applicable law.

## STATE WATER RESOURCES CONTROL BOARD



*Christian M. Carrigan, Director  
Office of Enforcement*

Dated: August 31, 2015