



EDMUND G. BROWN JR.  
GOVERNOR

MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

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## State Water Resources Control Board

August 31, 2015

**VIA ELECTRONIC MAIL  
AND CERTIFIED MAIL  
NO. 7015 0920 0001 4893 7608**

Mr. Tom Kennedy,  
General Manager  
Rainbow Municipal Water District  
3707 Old Hwy 395  
Fallbrook, CA 92028  
[tkennedy@rainbowmwd.com](mailto:tkennedy@rainbowmwd.com)

**SUBJECT: ENFORCEMENT ACTION: ISSUANCE OF CONSERVATION ORDER  
FOR FAILURE TO MEET WATER CONSERVATION STANDARD**

Mr. Tom Kennedy,

On May 5, 2015, the State Water Resources Control Board (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 became effective on May 18, 2015. Among other things, the Emergency Regulation is designed to achieve the 25 percent statewide potable water usage reduction through February 2016 ordered by Governor Brown in his April 1, 2015 executive order.


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).

After reviewing your response to the State Water Board’s Information Order, and meeting with representatives from the Rainbow Municipal Water District (the District) on August 17, 2015, it has become clear that the District is not likely to meet its conservation target of 36% by February, 2016. Subsequently, further enforcement action is warranted.

I am issuing you a Conservation Order under section 866(a)(1). Please see the enclosed order. The State Water Board finds that a tiered rate structure that implements a drought penalty is an effective way to encourage water conservation. Information on conservation water pricing can be found at: [http://www.waterboards.ca.gov/waterrights/water\\_issues/programs/drought/pricing/](http://www.waterboards.ca.gov/waterrights/water_issues/programs/drought/pricing/)

If you have questions, please contact Dr. Matthew Buffleben at (916) 341-5891, or by email at [Matthew.Buffleben@waterboards.ca.gov](mailto:Matthew.Buffleben@waterboards.ca.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "Chris Carrigan".

Christian M. Carrigan, Director  
**Office of Enforcement**

Enclosure

cc: *(via email only)*

Dr. Matthew Buffleben, Chief  
Special Investigations Unit  
[Matthew.Buffleben@waterboards.ca.gov](mailto:Matthew.Buffleben@waterboards.ca.gov)

Adriana Ochoa  
General Counsel  
Rainbow Municipal Water District  
[adriana.ochoa@procopio.com](mailto:adriana.ochoa@procopio.com)

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

**OFFICE OF ENFORCEMENT**

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**CONSERVATION ORDER**

In the Matter of Urban Water Conservation by  
**Rainbow Municipal Water District**

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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(a) and (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. 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.
9. Rainbow Municipal Water District (the District) has a conservation target, pursuant to Section 865(c), of 36% savings over its water usage in 2013. The District is cumulatively 8.4% behind in meeting the applicable conservation standard.
10. On August 7, 2015 the State Water Board Office of Enforcement issued an Information Order pursuant to its authority outlined in Section 866(b) of the Emergency Regulations, to determine what actions the District had taken to comply with its conservation standard.
11. On August 17, 2015 the District 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.
12. The circumstances described above indicate that the District has not met its monthly conservation standard, and is not on track to meet the standard through February 2016.
13. To help ensure that the District meets its conservation target of 36% through February 2016, the State Water Board mandates that the District take the actions described below.
14. This Conservation Order mandates the District to create and fully implement a water conservation program.
15. Recipients of conservation orders issued pursuant to Section 866(a) 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 District shall:
  - (A) Immediately and diligently pursue a rate study in compliance with California Proposition 218, with the goal of implementing a water rate structure that encourages conservation as well as discouraging waste or overuse. The district shall initiate the public notice period of the proposed change in rate structure by November 1, 2015.
  - (B) Determine, within the next thirty (30) days, the feasibility of implementing a "drought surcharge" on the existing rate structure, and if such surcharge is infeasible, include a "drought surcharge" as part of the rate study described in (A).
  - (C) Immediately implement an outreach program that focuses on increasing conservation awareness.
  - (D) Within thirty (30) days, the District shall identify the highest water users in its service area and conduct specialized outreach to that group of water users, inviting them to a meeting held by the District where additional conservation measures that those users may implement will be discussed.

- (E) Immediately meet with the contractor that conducts water use audits for the District and determine how many residential and commercial, industrial, and institutional (CII) audits have been conducted per month since April 1, 2015.
  - (F) Increase outreach efforts towards the District's residential customers by offering at least seven (7) additional water use audits per month. The District shall maintain communications with audited customers and document which audit recommendations are implemented.
  - (G) Immediately implement or participate in an active rebate program that offers rebates. The District shall implement or participate in a rebate program for high-efficient toilets and other indoor water efficient devices. The District shall include these rebate programs into its outreach and advertising materials. The District shall contact its electric service provider to request that the electric service provider's rebate programs are effectively marketed to the district's customers.
  - (H) Hire or allocate two (2) new or existing part-time employees dedicated to enforcing the District's outdoor water restrictions within sixty (60) days.
  - (I) Hire or allocate at least one (1) new or existing full-time employee that will be dedicated to coordinating and implementing the District's Water Conservation Program within sixty (60) days.
  - (J) Develop an outreach program that includes public education on the value and application of mulch, so as to reduce the amount of residential water use necessary to irrigate trees.
3. The District 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 District 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, pursuant to Section 866(b) of the Emergency Regulation. 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 District 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 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