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# SENATOR KEVIN DE LEÓN
## PRESIDENT PRO TEMPORE

April 28, 2015

Governor Edmund G. Brown, Jr.
State Capitol First Floor
Sacramento, CA 95814

**RE: Actions to Address California's Historic Drought**

Dear Governor:

We write to thank you for your leadership in tackling the state's historic drought.

As this crisis grows, our two branches of government should work even more closely so that the state responds quickly and appropriately to conditions on the ground. Therefore, we want to offer our help and suggestions for additional actions that may be needed as we enter the driest months of the year.

Last week, we met with Felicia Marcus, your Water Board Chair and point person on implementation of key portions of your executive orders. Chair Marcus did an outstanding job presenting the current status of the water board's work. She offered to keep the Senate informed of its activities going forward, especially with new actions and new headlines dominating the news almost every day.

In the next few weeks, you will present your Budget May Revision, and both houses of the Legislature will take next steps to advance policy bills in the legislative process. We also expect to have ongoing oversight hearings to review administrative actions. In anticipation of these next steps, we want to share some suggestions with you based on our dialogue with Chair Marcus and the comments of Senators. We will work with you to adopt and implement these and other ideas in the coming months, whether by legislation or appropriation.

1. **Increase and Expedite Drought Related Funding**.
   Proposition 1 and Greenhouse Gas Reduction Fund (GGRF) revenues provide excellent and immediate opportunities for investments to provide drought relief. In the January Budget, the Administration proposed spending Proposition 1 urban and agriculture water efficiency funds over a four-year period. These funds should be spent much more quickly. They could be appropriated and out on the street within the next few months—as opposed to years—to provide immediate drought relief. Appropriate reporting, monitoring and oversight mechanisms can be included in the grant conditions to ensure funding will be spent effectively.

Likewise, the Legislature has approved GGRF funds for both urban and agriculture water and energy efficiency (this latter benefit allows GGRF funds to be spent for these purposes). GGRF funds should be used to reduce greenhouse gases, but both the California Department of Food and Agriculture's Water Energy Efficiency (WEEP) program and the Department of Water Resources (DWR) Water Energy Grant program are still excellent programs and are woefully oversubscribed and could use tens of millions of additional dollars immediately.

2. **State Agencies Should Move More Quickly to Adopt Rules for Bond Funds.**
We should prioritize recycling to replace potable water for lawns, parks, golf courses, and other landscaped areas. State agencies, however, have reported they will not even have guidelines in place for local agencies to apply for recycled water funds under Proposition 1 until late 2015 or even early 2016. This is unacceptable. Agencies should adopt or update guidelines as soon as possible to ensure local and regional water purveyors can apply for and obtain funds for programs like recycled water to expand and extend water supplies.

3. **Create New Incentives for Agriculture to Use Water More Efficiently.**
Agriculture uses much of the water in the state. It can—and should—do more during the drought. However, this doesn't mean measures need be regulatory or punitive. On the contrary, giving agriculture incentives to plant water efficient crops, to change out practices like flood irrigation for more efficient water management, and for installing more efficient water pumping all would help agriculture save water and weather droughts more resiliently.

   We should also explore opportunities to retire marginal farmland, such as farms that were converted from rangeland, with willing property owners interested in converting land to renewable energy projects.

4. **Adopt Updated Model Tiered Water Rate Ordinance and Guidance for use by Local Water Agencies.**
Provision (8) of your executive order directs local water purveyors to adopt rate structures and other mechanisms to promote water conservation. Recently, a court of appeals in southern California invalidated a tiered water rate ordinance adopted by the City of San Juan Capistrano. This decision has raised questions about the legality of other such ordinances. As part of its implementation of the drought Executive Order the State Water Board should consider providing guidance to water purveyors on how such ordinances are structured in order to avoid potential legal challenges.

5. **Increase Public Education and Awareness with More Precise Information on Water Use.**
Many water agencies have pioneered practices such as more informative water billing that provides urban water customers with detailed information on what they use, what their neighbors use and how they can better save water. It is reported that these practices alone have saved an additional 5% of water in those areas. In addition, information on reducing water should be made available in languages other than English.

Targeted consumer education and incentive programs should also be implemented. Replacing old appliances with new water and energy efficient washing machines, dishwashers, sprinklers, and timers create permanent savings. This creates an opportunity for the state to team up with the home improvement industry to create rebates and other incentives to encourage upgrading home appliances.

6. **Practice What We Preach--Accelerate Drought Resilient Landscapes and Efficiency Measures at State Facilities.**
Government, commercial, institutional landscaping all use large amounts of water for irrigation. We should consider eliminating ornamental lawns and landscapes at state facilities and replace them in one year with drought resilient landscaping. Also, we should maximize use of recycled water for landscaping on state-owned lands where available and appropriate.

   In addition, state agencies should ensure indoor water use efficiency measures, such as replacement of outdated plumbing fixtures including toilets, and metering have been implemented in all state buildings.

7. **Increase Use of Greywater.**
The public is showing increased interest in greywater systems. These systems take mildly degraded non-potable water (e.g. from washing machines, sinks) and reuse in it landscaping and other uses. We should examine current programs for increasing residential energy efficiency to see if they can be paired with water efficiency investments such as greywater systems.

8. **Reduce Illegal Water Diversions.**
The SWRCB has broad enforcement authority over illegal water diversions. Thanks to your executive orders and other actions, we now have much more detailed information on who holds water rights, their seniority, and their use. It makes sense during extreme drought events to review this information and, at minimum, to encourage water rights holders to use only what is needed, saving water for the ecosystem and possible for junior water rights holders downstream. This will take time but is worth exploring. In the future, the SWRCB must have better information and more effective tools to enable properly managed water markets and avoid unintended consequences of paper water transactions.

9. **Explore Greater Use of Waste and Unreasonable Use Authority.**
This rarely-used constitutional authority of SWRCB to find certain uses are wasteful should be considered as conditions worsen. Essential water services for our communities, economy, and ecosystems should be protected, while lower priority uses such as wasteful irrigation and excessive water use should be limited.

10. **Consider Appointing a Water Czar or Water Coordinator.**
We are fortunate to have so many dedicated professionals within your administration who are addressing different aspects of drought response and water conservation. But these professionals and programs are spread through a myriad of state departments and agencies,

including the Water Resources Control Board, the Departments of Water Resources, Fish and Wildlife, Food and Agriculture, CalFire, the Office of Emergency Services, and others. On top of these state departments, there are numerous local water entities that must interface with the state and each other.

Given that activities are dispersed through so many parts of state and local government, we encourage you to give serious consideration to appointing a statewide Water Coordinator within your office. Such an individual could help focus and coordinate all responses and be the backstop for the efforts we must make as a state.

11. **Take Advantage of California's Technology Innovators.**
California is home to so many creative people in the world of technology, and we encourage you to take advantage of the talents of these individuals during this drought emergency. One possibility might be to call for a special water technology summit, and invite the leaders of Silicon Valley and our other California technology hubs to present ideas of how we might use technology—through smart phones, personal computing devices, and enterprise systems—to raise awareness and promote water conservation and delivery to our citizens and business. The world still looks to California for technological innovation, and we should use these innovators to help us address this crisis.

12. **Recognize and prepare for the new normal in California.**
Unfortunately, under climate change, droughts like California is currently experiencing are likely to become much more the norm rather than the extreme. We must respond by aggressively developing and implementing policies that will make California more drought and climate resilient in the future.

First steps toward this end would be to better meter and measure all water use in California. We cannot manage what we do not measure. Sub-meters, outdoor water meters, water rights reporting, are all critical components of better managing for California's new normal.

In addition, California's water agencies must be able to price water appropriately, especially in response to drought. Pricing policies should be examined to determine whether new legislation is necessary to allow appropriate water management.

We look forward to working closely with you as we move into the dry summer months.

Thank you in advance for your consideration.

Sincerely,

KEVIN DE LEÓN
President pro Tempore
Twenty-Fourth District

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Chair, Senate Natural Resources
and Water Committee

LOIS WOLK
Chair, Budget Sub #2
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Senator Jim Beall
Senate District 15

Senator Marty Block
Senate District 39

Senator Cathleen Galgiani
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