
**FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCo)
EXECUTIVE OFFICER'S REPORT**

AGENDA ITEM No. 6

DATE: February 12, 2014

TO: Local Agency Formation Commission

FROM: David E. Fey, AICP, Executive Officer

SUBJECT: Informational Report: LAFCo and the Current Drought

RECOMMENDATION: Receive and File Informational Report

SUMMARY

This informational report examines what administrative and procedural options are available to LAFCo to respond to the current drought in California.

INTRODUCTION

On January 17, 2014, Governor Brown proclaimed a state of emergency due to drought conditions that presented "extreme peril to the safety of persons and property exist in California due to water shortage and drought conditions with which local authority is unable to cope" (Attachment 1). According to the Governor, these extremely dry conditions have persisted since 2012 and based on scientific projections regarding the impact of climate change on California's snowpack, these conditions may continue beyond this year and more regularly into the future. Because the effects of severe drought exceed the capacity of any single local government's services, personnel, or facilities, the Governor has proclaimed that a response requires the combined forces of the state.

In his proclamation, the Governor ordered a series of actions by state agencies to address the drought by coordinating activities, accelerating projects, and increasing levels of service. Many of those directives have a potential interaction with Fresno LAFCo's local agencies. These include:

- A statewide water conservation campaign led by the Department of Water Resources to make all Californians aware of the drought and encourage personal actions to reduce water usage by 20 percent.
- Local urban water suppliers and municipalities are called upon to implement their local water shortage contingency plans immediately and update their legally required urban and agricultural water management plans.
- The DWR and the State Water Resources Control Board (Water Board) will expedite the processing of water transfers, as called for in Executive Order B-21-13 to enable water to flow where it is needed most.
- The Water Board will immediately consider petitions requesting consolidation of the places of use of the State Water Project and Federal Central Valley Project, to streamline water transfers and exchanges between water users within the areas of these two major water projects.

- The DWR and the Water Board will accelerate funding for ‘shovel-ready’ water supply enhancement projects.
- The Water Board will put water right holders throughout the state on notice that they may be directed to cease or reduce water diversions based on water shortages.
- The Water Board will consider modifying requirements for reservoir releases or diversion limitations, where existing requirements were established to implement a water quality control plan. These changes would enable water to be conserved upstream later in the year to protect cold water pools for salmon and steelhead, maintain water supply, and improve water quality.
- The state’s Drinking Water Program will work with local agencies to identify communities that may run out of drinking water, and will provide technical and financial assistance to help these communities address drinking water shortages. It will also identify emergency interconnections that exist among the state’s public water systems that can help these threatened communities.
- The DWR will take necessary actions to protect water quality and water supply in the Delta, including installation of temporary barriers or temporary water supply connections as needed, and will coordinate with the Department of Fish and Wildlife to minimize impacts to affected aquatic species.
- The Cal Fire will hire additional seasonal firefighters to suppress wildfires and take other needed actions to protect public safety during this time of elevated fire risk.

This follows similar proclamations by Governor Schwarzenegger of states of emergency in Fresno County and California due to severe drought in 2009 and 2010, respectively.

Relationship to LAFCo

It is worth noting that there are several references to local agencies in the Governor’s proclamation (“...conditions with which *local authority* is unable to cope,” and “...beyond the control of ...any single *local government*...”). This raises the question, what is LAFCo’s role in responding to the drought?

This report addresses the relationship between the drought and LAFCo and analyzes what is relevant to the work of the Commission: application review, municipal service review, and Commission policy. Through these activities, Fresno LAFCo can support the activities of other state and local agencies to address the drought conditions that afflicting the state.

The LAFCo was created by the legislature to oversee the formation of local agencies, guide orderly growth of those agencies, provide for the efficient service delivery by those agencies and to preserve open space and prime agricultural lands. LAFCo does not have police powers, neither is it capable of exercising land use authority, but it does have broad discretionary authority over boundary changes for local agencies. The inventory of 130 local agencies subject to Fresno LAFCo review and consideration are presented in Attachment 2.

How LAFCo Interacts With Local Agencies

Application Review The first interaction is reactive: when a proposal is submitted by a local agency for a change of organization¹, reorganization², or sphere of influence³ revision, it is evaluated in accordance with Government Code (GC) section 56668 which directs that certain factors be considered in the review of the proposal including, but not be limited to, population, growth, the need for community services, and “Timely availability of water supplies adequate for projected needs as specified in Section 65352.5.”

Thus, staff is already reviewing application information to determine the adequacy of water supply. Typically, this is found in the applicant’s CEQA document for which it is responsible for as Lead Agency. If there is any question, staff may request additional information and data. Cities and many districts are already responsible for preparing a range of water management plans, urban water management plans, water shortage response plans, and so forth, so the additional data is not typically difficult to obtain.

Once this information is analyzed and a recommendation is presented to the Commission, the Commission is afforded broad discretionary powers by the Act:

56375 (a)(1) To review and approve with or without amendment, wholly, partially, or conditionally, or disapprove proposals for changes of organization or reorganization, consistent with written policies, procedures, and guidelines adopted by the Commission.

Determinations

1. Staff and the Commission have broad authority to request detailed application information and ultimately to act on proposed changes of organization, reorganizations, and sphere of influence revisions, including as it relates to water supply.
2. Staff will immediately communicate with all local agencies in Fresno County to inform them that during the state of emergency, Fresno LAFCo review of applications shall emphasize agencies’ water supply planning, preparedness, and actions they are taking to address California’s drought.
3. Staff will request information about each local agency’s response to the drought, whether their principal act is related to water or not. Staff will request the agencies’ estimation of specific impacts to their service delivery activities and what contingency plans they are considering.
4. Staff will continue to coordinate and seek information from the other LAFCOs.

Municipal Service Reviews The second way that the LAFCo interacts with local agencies is proactive: The Commission performs municipal service reviews on a five-year cycle. A MSR is an audit of the agency’s efficiency, long-range plans and master plans, review of its annual budget in comparison with its plans, governance and transparency.

¹ Government Code Section 56021. "Change of organization" means any of the following: (a) A city incorporation; (b) A district formation; (c) An annexation to a city; (d) An annexation to a district; (e) A detachment from a city; (f) A detachment from a district; (g) A disincorporation of a city; (h) A district dissolution; (i) A consolidation of cities; (j) A consolidation of special districts; (k) A merger of a city and a district; (l) Establishment of a subsidiary district; (m) The exercise of new or different functions or classes of services, or divestiture of the power to provide particular functions or classes of services, within all or part of the jurisdictional boundaries of a special district....

² GC 56073. "Reorganization" means two or more changes of organization contained within a single proposal.

³ GC 56076. "Sphere of influence" means a plan for the probable physical boundaries and service area of a local agency, as determined by the Commission.

In order to prepare and update spheres of influence, the Commission conducts a service review of the municipal services provided in the county or other appropriate area designated by the Commission. The Commission shall include in the area designated for service review the county, the region, the subregion, or any other geographic area as is appropriate for an analysis of the service or services to be reviewed, and shall prepare a written statement of its determinations with respect to each of the following:

1. Growth and population projections for the affected area.
2. The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence.
3. Present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies, including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged, unincorporated communities within or contiguous to the sphere of influence.
4. Financial ability of agencies to provide services.
5. Status of, and opportunities for, shared facilities.
6. Accountability for community service needs, including governmental structure and operational efficiencies.
7. Any other matter related to effective or efficient service delivery, as required by Commission policy.

MSRs also permits an examination of public water systems' compliance with the California Safe Drinking Water Act, including Mutual Water Companies serving areas in Fresno County.

MSRs are a systematic and independent examination of data, statements, records, operations and performances (financial or otherwise) of a local agency for the purpose of evaluating a sphere of influence revision. The determinations are identified by the Act; the seventh permits the LAFCo to analyze "other matter related to effective or efficient service delivery, as required by Commission policy."

Determinations

1. MSR can be an effective process to evaluate water supply and drought resilience as an element of service delivery through the existing Determination Number 3.
2. The MSR process is essentially an educational and informative report for the Commission. Commission policy can direct that during the MSR development, particular attention should be given to future service deficiencies, like the effect of potential water shortages.
3. Based on the MSR determinations, the Commission may recommend additional actions by the local agency, or use them to support conditions of future sphere of influence revisions related to water supply and/or management.
4. The Commission's discretion to focus particular attention on one aspect of governance and service delivery can be enhanced by adopted Commission policy.

Commission Policy A third interaction with local agencies is by Commission policies by which the scope and content of studies the local agency must provide to the Commission can be established. The legislature intended each Commission to establish written policies and procedures and exercise its powers pursuant to the Act in a manner consistent with those policies and procedures

that encourage and provide planned, well-ordered, efficient urban development patterns with appropriate consideration of preserving open-space and agricultural lands within those patterns.

Fresno LAFCo's *Policies and Procedures* include several criteria related to evaluating whether an adequate water supply exists for SOI updates, annexations to cities and urban service districts, incorporation of new cities and formation of new districts, rural or regional.

Noteworthy are the many references in Commission policies requiring that applicants demonstrate "adequate for projected needs as specified in Code section 65352.5" (Attachment 3). This division of Planning and Zoning Law imposes close coordination and consultation between California's water supply agencies and California's land use approval agencies to ensure that proper water supply planning occurs in order to accommodate projects that will result in increased demands on water supplies. This division establishes a standardized process for determining the adequacy of existing and planned future water supplies to meet existing and planned future demands on these water supplies. It is initiated by a city's or county's proposed action to adopt or substantially amend a general plan, and requires a public water system with 3,000 or more service connections to provide certain information to the subject planning agency such as urban water management plan, current version of its capital improvement program, and information concerning its total water supply.

Though LAFCo is not a land use authority, its policies connect the Commission's interest in efficient service delivery to the information developed in the water supply assessment described in section 65352.5.

Determinations

1. Commission policies currently direct staff to analyze water supply for major classes of LAFCo projects.
2. Further policies that guide local agencies' CEQA documents, or require more detailed application support materials, can be adopted to address service concerns of the Commission. The additional policies should explain what information is needed to evaluate sphere and boundary decisions, and otherwise be more specific on how it intends to make policy decisions regarding water.
3. The Commission and Local Agency workshops proposed in the FY 14/15 work plan could serve as a forum for further discussion of how LAFCo policies and procedures can appropriately address the current drought and support efforts of state and local government.

I am indebted to the following executive officers who provided information and support for this report:

Roseanne Chamberlain, Amador LAFCo
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Martha Poyatos, San Mateo LAFCo

David Church, SLO LAFCo
Elliot Mulburg, Solano LAFCo
Christine Crawford, Yolo LAFCo

A PROCLAMATION OF A STATE OF EMERGENCY

WHEREAS the State of California is experiencing record dry conditions, with 2014 projected to become the driest year on record; and

WHEREAS the state's water supplies have dipped to alarming levels, indicated by: snowpack in California's mountains is approximately 20 percent of the normal average for this date; California's largest water reservoirs have very low water levels for this time of year; California's major river systems, including the Sacramento and San Joaquin rivers, have significantly reduced surface water flows; and groundwater levels throughout the state have dropped significantly; and

WHEREAS dry conditions and lack of precipitation present urgent problems: drinking water supplies are at risk in many California communities; fewer crops can be cultivated and farmers' long-term investments are put at risk; low-income communities heavily dependent on agricultural employment will suffer heightened unemployment and economic hardship; animals and plants that rely on California's rivers, including many species in danger of extinction, will be threatened; and the risk of wildfires across the state is greatly increased; and

WHEREAS extremely dry conditions have persisted since 2012 and may continue beyond this year and more regularly into the future, based on scientific projections regarding the impact of climate change on California's snowpack; and

WHEREAS the magnitude of the severe drought conditions presents 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 California Government Code, I find that conditions of extreme peril to the safety of persons and property exist in California due to water shortage and drought conditions with which local authority is unable to cope.

NOW, THEREFORE, I, EDMUND G. BROWN JR., 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 of the California Government Code **HEREBY PROCLAIM A STATE OF EMERGENCY** to exist in the State of California due to current drought conditions.

IT IS HEREBY ORDERED THAT:

1. State agencies, led by the Department of Water Resources, will execute a statewide water conservation campaign to make all Californians aware of the drought and encourage personal actions to reduce water usage. This campaign will be built on the existing Save Our

Water campaign (<http://www.saveourh20.org/>) and will coordinate with local water agencies. This campaign will call on Californians to reduce their water usage by 20 percent.

2. Local urban water suppliers and municipalities are called upon to implement their local water shortage contingency plans immediately in order to avoid or forestall outright restrictions that could become necessary later in the drought season. Local water agencies should also update their legally required urban and agricultural water management plans, which help plan for extended drought conditions. The Department of Water Resources will make the status of these updates publicly available.

3. State agencies, led by the Department of General Services, will immediately implement water use reduction plans for all state facilities. These plans will include immediate water conservation actions, and a moratorium will be placed on new, non-essential landscaping projects at state facilities and on state highways and roads.

4. The Department of Water Resources and the State Water Resources Control Board (Water Board) will expedite the processing of water transfers, as called for in Executive Order B-21-13. Voluntary water transfers from one water right holder to another enables water to flow where it is needed most.

5. The Water Board will immediately consider petitions requesting consolidation of the places of use of the State Water Project and Federal Central Valley Project, which would streamline water transfers and exchanges between water users within the areas of these two major water projects.

6. The Department of Water Resources and the Water Board will accelerate funding for water supply enhancement projects that can break ground this year and will explore if any existing unspent funds can be repurposed to enable near-term water conservation projects.

7. The Water Board will put water right holders throughout the state on notice that they may be directed to cease or reduce water diversions based on water shortages.

8. The Water Board will consider modifying requirements for reservoir releases or diversion limitations, where existing requirements were established to implement a water quality control plan. These changes would enable water to be conserved upstream later in the year to protect cold water pools for salmon and steelhead, maintain water supply, and improve water quality.

9. The Department of Water Resources and the Water Board will take actions necessary to make water immediately available, and, for purposes of carrying out directives 5 and 8, Water Code section 13247 and Division 13 (commencing with section 21000) of the Public Resources Code and regulations adopted pursuant to that Division are suspended on the basis that strict compliance with them will prevent, hinder, or delay the mitigation of the effects of the

emergency. Department of Water Resources and the Water Board shall maintain on their websites a list of the activities or approvals for which these provisions are suspended.

10. The state's Drinking Water Program will work with local agencies to identify communities that may run out of drinking water, and will provide technical and financial assistance to help these communities address drinking water shortages. It will also identify emergency interconnections that exist among the state's public water systems that can help these threatened communities.

11. The Department of Water Resources will evaluate changing groundwater levels, land subsidence, and agricultural land fallowing as the drought persists and will provide a public update by April 30 that identifies groundwater basins with water shortages and details gaps in groundwater monitoring.

12. The Department of Water Resources will work with counties to help ensure that well drillers submit required groundwater well logs for newly constructed and deepened wells in a timely manner and the Office of Emergency Services will work with local authorities to enable early notice of areas experiencing problems with residential groundwater sources.

13. The California Department of Food and Agriculture will launch a one-stop website (www.cdffa.ca.gov/drought) that provides timely updates on the drought and connects farmers to state and federal programs that they can access during the drought.

14. The Department of Fish and Wildlife will evaluate and manage the changing impacts of drought on threatened and endangered species and species of special concern, and develop contingency plans for state Wildlife Areas and Ecological Reserves to manage reduced water resources in the public interest.

15. The Department of Fish and Wildlife will work with the Fish and Game Commission, using the best available science, to determine whether restricting fishing in certain areas will become necessary and prudent as drought conditions persist.

16. The Department of Water Resources will take necessary actions to protect water quality and water supply in the Delta, including installation of temporary barriers or temporary water supply connections as needed, and will coordinate with the Department of Fish and Wildlife to minimize impacts to affected aquatic species.

17. The Department of Water Resources will refine its seasonal climate forecasting and drought prediction by advancing new methodologies piloted in 2013.

18. The California Department of Forestry and Fire Protection will hire additional seasonal firefighters to suppress wildfires and take other needed actions to protect public safety during this time of elevated fire risk.

19. The state's Drought Task Force will immediately develop a plan that can be executed as needed to provide emergency food supplies, financial assistance, and unemployment services in communities that suffer high levels of unemployment from the drought.

20. The Drought Task Force will monitor drought impacts on a daily basis and will advise me of subsequent actions that should be taken if drought conditions worsen.

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 17th day of January, 2014.

EDMUND G. BROWN JR.,
Governor of California

ATTEST:

DEBRA BOWEN,
Secretary of State

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Fresno LAFCo's Local Agency Inventory

INCORPORATED CITIES

City of Clovis
City of Coalinga
City of Firebaugh
City of Fowler
City of Fresno
City of Huron
City of Kerman
City of Kingsburg
City of Mendota
City of Orange Cove
City of Parlier
City of Reedley
City of San Joaquin
City of Sanger
City of Selma

SPECIAL DISTRICTS

12	Cemetery
9	Community Service
1	Conservation
21	County Service Area
3	Drainage
5	Fire Protection
1	Flood Control
3	Hospital
7	Irrigation
1	Library
2	Memorial
4	Mosquito Abatement
2	Pest Control
2	Police Protection
3	Public Utility
2	Reclamation
2	Recreation and Park
7	Resource Conservation
1	Sanitation
18	Water (California)
3	Water (County)
6	Waterworks

130 total 15 Cities and 115 Districts

California Government Code Section 65352.5.

(a) The Legislature finds and declares that it is vital that there be close coordination and consultation between California's water supply agencies and California's land use approval agencies to ensure that proper water supply planning occurs in order to accommodate projects that will result in increased demands on water supplies.

(b) It is, therefore, the intent of the Legislature to provide a standardized process for determining the adequacy of existing and planned future water supplies to meet existing and planned future demands on these water supplies.

(c) Upon receiving, pursuant to Section 65352, notification of a city's or a county's proposed action to adopt or substantially amend a general plan, a public water system, as defined in Section 116275 of the Health and Safety Code, with 3,000 or more service connections, shall provide the planning agency with the following information, as is appropriate and relevant:

(1) The current version of its urban water management plan, adopted pursuant to Part 2.6 (commencing with Section 10610) of Division 6 of the Water Code.

(2) The current version of its capital improvement program or plan, as reported pursuant to Section 31144.73 of the Water Code.

(3) A description of the source or sources of the total water supply currently available to the water supplier by water right or contract, taking into account historical data concerning wet, normal, and dry runoff years.

(4) A description of the quantity of surface water that was purveyed by the water supplier in each of the previous five years.

(5) A description of the quantity of groundwater that was purveyed by the water supplier in each of the previous five years.

(6) A description of all proposed additional sources of water supplies for the water supplier, including the estimated dates by which these additional sources should be available and the quantities of additional water supplies that are being proposed.

(7) A description of the total number of customers currently served by the water supplier, as identified by the following categories and by the amount of water served to each category:

(A) Agricultural users.

(B) Commercial users.

(C) Industrial users.

(D) Residential users.

(8) Quantification of the expected reduction in total water demand, identified by each customer category set forth in paragraph (7), associated with future implementation of water use reduction measures identified in the water supplier's urban water management plan.

(9) Any additional information that is relevant to determining the adequacy of existing and planned future water supplies to meet existing and planned future demands on these water supplies.