



NEVADA IRRIGATION DISTRICT

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PARADISE IRRIGATION DISTRICT

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SOUTH FEATHER WATER & POWER AGENCY

RATH MOSELEY, GENERAL MANAGER

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February 6, 2017

By Email

Members of the State Water Resources Control Board

Re: **Emergency Regulations for Urban Water Conservation**

Dear Board Members:

Nevada Irrigation District, Paradise Irrigation District, and South Feather Water & Power Agency (collectively Districts) urge the State Water Resources Control Board (State Water Board) to discontinue emergency regulations for urban conservation. Continuing "emergency" rulemaking and conservation mandates well past the period of drought emergency undermines the credibility of the State Water Board and ultimately the Districts and urban suppliers throughout the State of California that are tasked with implementing conservation mandates. Emergency powers should and must be limited to actual periods of emergency; otherwise, customer response to future legitimate drought emergencies will be less effectual.

The justification set forth in the draft resolution for continuing emergency urban conservation measures is because drought conditions "exist in portions of the state, because snowpack and reservoir conditions for the end of the water year remain subject to change through the end of the water year, because the May 18 regulation is set to expire on February 28, 2017, and to address the ongoing need to prevent the waste and unreasonable use of water and to promote conservation." (Draft Resolution, ¶ 21.) An emergency is a sudden, unexpected event that has happened and its effects continue. It is a retrospective response to address "conditions of disaster or of extreme

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peril to the safety of persons and property...". (Gov. Code § 8558, subd. (b).) The State Water Board's justification for continuing emergency, in contrast, is based on the potential for a change in *future* conditions, including that snowpack and reservoir conditions may change. The potential for a future event causing a return to emergency drought conditions does not justify extending the current emergency response measures¹. It is neither sound policy nor legally defensible.

The basis of the State Water Board's continuing use of "emergency" powers is based on the presumption that the Governor's executive orders and drought proclamations remain in effect. However, the fact that the Governor has delayed in lifting the proclamation does not countenance the State Water Board's continued assertion of emergency power. The Emergency Services Act, the delegation of authority to the Governor in times of emergency, states "The Governor *shall proclaim the termination of a state of emergency at the earliest possible date that conditions warrant*. All of the powers granted the Governor by this chapter with respect to a state of emergency shall terminate when the state of emergency has been terminated by proclamation of the Governor or by concurrent resolution of the Legislature declaring it at an end." (Gov. Code § 8629, emphasis added.) The "earliest possible date" has long since passed. The credibility of your institution and you as appointed board members and subject matters experts of the State Water Resources Control Board obliges you to discontinue emergency rulemaking. Emergency drought conditions no longer exist.

Respectfully submitted,

Respectfully submitted,

Sincerely,

NEVADA IRRIGATION DISTRICT

PARADISE IRRIGATION DISTRICT


SOUTH FEATHER WATER AND
POWER AGENCY



Remleh Scherzinger,
General Manager



George Barber
General Manager



Rath Moseley, General
Manager

¹ For example, our state is prone to earthquakes. An earthquake will eventually necessitate emergency response measures, including potential emergency rulemaking by state agencies. That potential future event, however, does not justify the use of emergency measures now in anticipation of the future emergency.