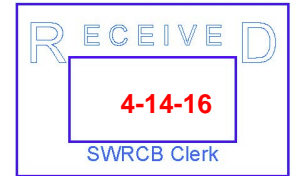


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Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
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April 14, 2016

Thank you for giving local water agencies the opportunity to provide input regarding urban water conservation policy and regulation. Please accept these comments on behalf of my clients, the El Dorado County Water Agency (ECWA) and the Calaveras County Water District (CCWD) regarding the Urban Water Conservation Public Workshop of April 20, 2016. It is our understanding that this workshop is to receive input on the potential modification of the current (February 2016) Emergency Regulation for Statewide Urban Water Conservation. These comments also represent our response to the three questions raised by the Board in the Workshop Notice on page 2.

Question #1 - What elements of the existing February 2016 Emergency Regulations should be modified and how so?

Question #2 – How should the State Water Board account for regional differences in precipitation and lingering drought impacts, and what would be the methods of doing so?

Answers for both questions combined.

Section 865(c)(2) should be modified to reflect local water agency water supply conditions. The existing regulations are intended to meet certain criterion of which the most significant is to achieve a statewide water savings. However, the regulation is intended to prevent “waste and unreasonable use” of water by requiring each water agency to meet specified per capita water savings. That is a critical distinction in that certain water uses, which normally are not considered wasteful or unreasonable, may be so defined when conditions warrant. The key factor is when conditions warrant.

Such conditions would be in times of extreme drought when local water supply conditions are critically short and any individual, or cumulative excessive use of water, could adversely impact the ability of the local water agency to meet customer demands for the year for basic health and human safety.

Unfortunately, Section 865(c)(2) as written does not adequately reflect the state of local water supply conditions in various regions of the State. All it does is establish a standard that requires a minimum four-year reserved supply in surface storage as a requisite to be eligible to request a reduction in the tiered conservation targets. The four-year period is far from the normal operation standard by which most water agencies operate reservoirs. For example, if all reservoirs were required to enter each summer with a four-year supply on hand, this would predicate gross scale reoperation of many if not all of the on-stream reservoirs in Northern California. It would require drastic reductions in water supply allocations, the loss of significant clean and renewable hydroelectric power generation as well as substantial downstream flood management modifications.

This year, normal reservoir storage levels (at end-of-spring storage or in some cases reservoir spilling conditions) indicate a robust supply on hand for our agencies and not what would be categorized as emergency drought conditions. Section 865(c)(2) should be modified to more accurately accommodate the specific watershed and storage conditions relative to the water agency in question. Information on a watershed-by-watershed basis (at least a 3rd order watershed level of detail) regarding anticipated annual runoff and total maximum storage levels for reservoirs should be solicited by the SWRCB from each water supplier and used to identify where drought conditions still do exist and where they no longer exist. Drought conditions this year are in fact not statewide, but rather a local phenomenon based on specific hydrologic conditions and infrastructure.

A more reasonable approach insofar as a characterization of waste and unreasonable use is concerned, is that the regulations should only apply to local agencies that truly are in a drought emergency condition as supported by local supply shortages. However, where water supply conditions do not represent a drought condition no emergency water conservation regulatory program is necessary. Indeed where below average, average or above average supplies of water are available as defined by the applicable Urban Water Management Plan the declaration that normal water is wasteful and/or unreasonable when supplies are not short is inappropriate. When the local agency's water supply and management is in compliance with their Urban Water Management Plan protocols such is not wasteful or unreasonable. To claim it is, is harmful to the local customers, the communities and the water agencies. Moreover, such an action casts serious doubt in the minds of the customers tasked with personally saving water regarding the State's credibility in declaring a drought that locally does not exist. It also makes it more difficult for local agencies to call on customers to conserve when an actual drought occurs.

We also urge the Board to provide for the accommodation of well-documented groundwater storage supplies into storage supplies eligible under this section for achieving reductions in any conservation mandates. The Board's insistence to exclude any groundwater storage supplies, even in cases where the existing groundwater storage on-hand represents multiple years of supply for the local agency, is misplaced caution. Indeed, the Board should be recognizing and

rewarding local agencies that can point to a local groundwater basin that is being managed in a manner that produces multi-year supply yields in a sustainable manner.

Section 865(f)(3)(i) should be modified. As written, the regulation provides that only drought resilient sources of potable water supply “developed after 2013 which does not reduce water available to another legal user or the environment” may be included reductions in required conservation. Such requirements will essentially disqualify many water use efficiency project investments from being counted. Development of local drought resilient water supplies and efficiencies requires a significant level of advance planning, investment, the commitment of fiscal resources, gaining community support, carrying out environmental analysis, obtaining permitting and construction. The 2013 date seems arbitrary and contrary to the numerous long-term programs and projects undertaken by water agencies over the past decades. Existing urban water management planning efforts of water agencies incorporates the development of water shortage contingency planning with a forward-looking horizon of 20-years. In short, drought resiliency is achieved through a long-term commitment rather than short-term emergency actions as envisioned by Section 865. The SWRCB must recognize, outside the narrow lens of an emergency that these projects have been developed and should be recognized and accommodated in Section 865. Simply put, should a drought emergency be declared in 2026, would the SWRCB only count projects developed after 2023 or perhaps 2024? The error of such an approach is obvious, as it would discount the very projects currently being carried out over the next few years to bring about the objectives of the California Water Action Plan.

Where non-potable water use efficiency projects are carried out those should be recognized and incorporated into any provisions for credit. Such projects may include recycled water projects, raw water conveyance system efficiency improvements and other actions upstream of water treatment plants. Such projects do save water, but at a cost of millions of dollars and generally over a period of years. These efforts should not be excluded from credit under Section 865.

The proposal to also limit drought resilient supplies as only those “...which do not reduce water available to another legal user or the environment” is an issue taken out of context. This issue is accounted for under a water rights process and not in a water use efficiency accounting context. The inclusion of such “Trojan Horse” criteria simply adds one more unnecessary step to a needlessly complex standard as created by the regulation.

Section 865(f) establishes a maximum adjustment of just 8 percent based on all factors, including climate differences in various regions of the state. The 8 percent cap is inappropriate as it arbitrarily establishes a metric unrelated to any logic or mandate. Further, it masks the very real differences in conditions in various regions of the state and fails to recognize the significance of regional influences of not only climate, but also the various other factors incorporated into establishing agency water use reductions. Most troubling is the absence of any

reasoning evident either in the Board's regulation, or the supporting documentation, as to how and why the 8 percent number was derived.

Questions #3 – To what extent should the State Water Board consider the reliability of urban water supplier supply portfolios in this emergency regulation?

Urban water supplier supply portfolios represent the multi-faceted, integrated approach of many water agencies to build in a more robust and drought resistant water supply. Therefore, unlike the criteria in the present emergency regulation, the supply portfolios will provide a greater amount of information regarding the various sources of water supplies each agency uses to supply its customers. This will by necessity include what the California Department of Water Resources (DWR) refers to as "self-supplied surface water" as well as surface water that is not self-supplied. The latter includes purchases from a wholesaler, transfers, or exchanges, and are reported as "Purchased or Imported Water." Urban Water Management Plan (UWMP) supply portfolios will also include groundwater sources from groundwater basins as well as fractured bedrock formations. While the former may have a firm yield estimate available, it is impossible to define a firm yield amount from the latter. Such portfolios also include sources of supply from storm water, recycled water, desalination (brackish groundwater and ocean) and wastewater.

Should the Board elect to consider these various sources of water in a drought emergency there would be potential issues related to the durability of some sources as well as the sustainability (in a prolonged drought) of some sources. Additionally, water transferred or otherwise moved from one hydrologic region of the state to another may increase in complexity due to drought conditions in those (source) areas of the state as well as conveyance capacity. Nonetheless, that level of detail should be considered by the Board to be helpful rather than too complex.

Constraints on water sources of supply must be addressed within an UWMP (CWC §10631 and 10634) so that to a reasonable extent practicable, the various constraints are not only identified but that management strategies are identified that have been or will be employed to resolve or mitigate for the constraint(s).

Constraints include but are not limited to: a) legal; b) environmental or; C) climactic. Encapsulated in these are a host of factors including declining groundwater levels, constrained conveyance capacity, sea level rise, or reduced snowpack. CWC §10631(c) requires a description of the reliability of UWMP supplies based on multiple dry years. The multiple dry year period is the period that represents the lowest average water supply availability to the agency for a consecutive multiple year period (three years or more). This is generally considered to be the lowest average runoff for a consecutive multiple year period (three years or more) for a watershed since 1903. DWR has interpreted "multiple dry years" to mean three dry years, however, water agencies may project their water supplies for a longer time period.

CWC §10635 requires every supplier to include within its UWMP an assessment of the reliability of its water service to its customers during normal, dry and multiple dry water years. The assessment must be based on information compiled pursuant to CWC §10631. The agency specific local/regional analysis under those two code sections represent a more detailed and useful tool for use in response to a drought emergency, than the Board's statewide regulation.

To incorporate the water resources planning complexities found within local and regional UWMPs in place of the SWRCB regulation as a drought response tool for the State will take a little time to be implemented. Nonetheless, we strongly recommend the Board utilize the excellent planning and information developed through the UWMP process in lieu of emergency regulations. We suggest this integration take place through Board consultation with the DWR as well as a diverse representation (from all hydrologic regions) of UWMP compliant agencies.

We believe that the commitment in time and resources by urban water agencies through the UWMP process, within a long-term perspective, is the most efficient and effective method to achieve a superior drought response program for the Board's use.

Our agencies continue to support the efficient and wise use of water resources as well as working with the Board on the development of a process to assist in the implementation of the California Water Action Plan. Moreover, we are committed to work with the Board and the DWR and other water agencies in advancing this process.

We look forward to working with the Board and staff on this worthy objective in the near future.

Sincerely,

John S. Mills

John S. Mills

cc: Dave Eggerton, General Manager Calaveras County Water District
Ken Payne, General Manager El Dorado County Water Agency