

Bill George – *President*
Division 3

Alan Day – *Director*
Division 5

Greg Prada – *Director*
Division 2



El Dorado Irrigation District

George W. Osborne – *Vice President*
Division 5

Dale Coco, MD – *Director*
Division 4

Jim Abercrombie
General Manager

Thomas D. Cumpston
General Counsel

In reply refer to: L2016-017

March 29, 2016

VIA EMAIL TO commentletters@waterboards.ca.gov

Felicia Marcus, Chair
and State Water Resources Control Board (SWRCB)
1001 I Street
Sacramento, CA 95814

Attn: Jeanine Townsend, Clerk to the Board

Re: Comment Letter – Urban Water Conservation Workshop

Dear Chair Marcus and Board Members D'Adamo, Doduc, Moore, and Spivey-Weber:

Thank you for scheduling the forthcoming April 20 public workshop on the SWRCB's extended emergency urban water conservation regulation. Further action on this regulation cannot come too soon, thanks to the wet winter that has continued since the SWRCB extended and modified the regulation. The present hydrologic conditions make it imperative that the SWRCB lift the regulation for our agency, and substantially amend it for others, without delay. A delay or failure to do so will risk not just the public's cooperation, but also the very credibility of local agencies such as El Dorado Irrigation District (EID or District), who must enforce the state's mandates. It is time to return local control to agencies like the District that have attained normal water supply conditions.

The SWRCB has solicited, and the District will provide, public comment on three topics. First, however, the District wishes to bring the enclosed EID Resolution No. 2016-010 to your attention. The District's Board of Directors adopted it on March 28, at its first regular Board meeting since February 22. To summarize:

- The District met the Governor's voluntary 20% conservation target in 2014.
- The District has exceeded the 28% (now 24%) conservation mandate the SWRCB assigned it for 2015 and 2016.
- While achieving this, the District had sufficient water supplies to re-operate its reservoirs and transfer surplus water to a water-short agricultural agency in 2015.
- Throughout the drought beginning in 2012, the District has been able to serve its customers water to the full extent that the state would allow, without risk of shortage.





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- The District has achieved this performance because it has invested many millions of ratepayer dollars to build and prudently manage its water supply portfolio, and because its customers have responded superbly when called to conserve.
- This winter, the District (which, like most of the Sierra foothills, is 100% surface-water dependent) has returned to normal water supply conditions:
 - Our largest reservoir, Jenkinson Lake, which is operated to provide a two-year supply, is full and spilling.
 - Our Weber Reservoir is also full and spilling.
 - Based upon the snowpack present in the American River basin, all reservoirs in our combined water-supply/hydroelectric project, FERC Project No. 184, are projected to fill and spill this year.
 - Folsom Reservoir is making flood-control releases; based on snowpack and assuming prudent dam operations, it seems certain to fill this year.
 - In short, every reservoir upon which the District relies is full or will fill, and the District anticipates again having surplus water available for transfer in 2016.

Consequently, the resolution rescinds the drought emergency the District has maintained in continuous effect since February 4, 2014. More significantly for the SWRCB's deliberations, the resolution continues in effect the District's Stage 2 Drought Water Warning, *solely to enable the District to maintain compliance with the SWRCB's regulation and the Governor's still-applicable 2014 call for local agencies to implement their drought contingency plans. But for the state's mandates, the District's Board would have unanimously rescinded its drought declaration, because for EID, the drought is over.*

The District is by no means the only local agency in this condition. Within the Sierra foothills, Placer County Water Agency, Nevada Irrigation District and Georgetown Divide Public Utility District have formally rescinded their drought emergencies in the face of ample reservoir storage. Numerous other agencies in our region are also enjoying or anticipating full reservoirs, and the District has no doubt that they will shortly follow suit.

Frankly, our greatest drought-management challenge at this point is explaining to our customers why they must still conserve when there is no reason to believe that we will be short of water to serve them. We recognize, however, that the same cannot be said throughout California. We therefore advocate, as we have since the SWRCB first began considering its urban water conservation regulation a year ago, that the SWRCB modify the now-extended regulation to take a regional approach: where drought conditions have eased, lift the regulation and restore local control.

Time is of the essence. The District's residential and agricultural customers will begin irrigating as soon as next month. Public pressure is mounting for local action to acknowledge local conditions, irrespective of the state's stance. We urgently request that the SWRCB take decisive and appropriate action no later than its May 3, 2016 regular meeting.



We now address the SWRCB's three questions:

What elements of the existing February 2016 Emergency Regulation, if any, should be modified and how so?

Revise Section 863(a)(5) to read, "The drought conditions that formed the basis of the Governor's proclamations continue to exist in some areas of the state." Modify subdivision (a)(6) of that section by inserting the phrase, "Where they still exist," at the beginning of the text.

Revise Section 864 so that subdivisions (a) through (d) are mandatory in regions where a conservation mandate under Section 865 is still in effect, but voluntary throughout the remainder of the state. Because subdivision (e) is declaratory of existing law, it is unnecessary and can either be stricken or moved to another regulation.

Revise Section 865(b)(2) so that reporting requirements apply only to urban water suppliers still subject to a conservation mandate. Modify subdivision (c)(1) by inserting the phrase ", except those identified in subdivision (h)," between the phrases "each urban water supplier" and "shall reduce its potable water production. . .". Modify subdivision (g)(1) by inserting the phrase ", except those identified in subdivision (h)," between the phrases "that is not an urban water supplier" and "shall take one or more of the following actions" and modify subdivision (g)(2) by inserting the same phrase between the phrases "that is not an urban water supplier" and "shall submit a report. . ."

Make appropriate reductions to the mandated percentages of conservation in subdivisions (c)(2) through (c)(10) of section 865, based upon statewide hydrologic conditions.

Insert a new subdivision (h) to Section 865. Subdivision (h) would begin, "Subdivisions (c) through (g) of this section do not apply to any urban water supplier, or distributor of a public water supply that is not an urban water supplier, whose water supply sources are entirely or predominantly surface water supplies located in the following regions, basins, or watersheds:" and then list hydrologic regions, major river basins, or tributary watersheds in which the SWRCB has determined (using the procedures detailed below) that hydrologic conditions have returned to normal parameters.

The District recognizes that this approach may be somewhat over-inclusive, because of purveyor-specific circumstances, such as reliance upon supplies from reservoirs still recovering from a multi-year storage deficit, or reliance upon junior water rights still at risk of curtailment in 2016. We believe, however, that individual purveyors are best situated to understand their own particular water-supply situation and can be trusted to respond appropriately – and our proposal would not prevent such purveyors from voluntarily continuing to impose the regulation's conservation mandate and end-user restrictions, if they deem it necessary or advisable.

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?

First, the SWRCB should focus exclusively on the most objective and readily accessible data – cumulative precipitation, major reservoir storage levels, and snowpack runoff estimates. All of these data are gathered and quality-controlled by the Department of Water Resources (DWR), which makes them publicly available on a daily basis. Determinations based upon these data will be transparent and objective.

The SWRCB should focus first on the hydrologic regions used for DWR’s Bulletin 120 reporting. Hydrologic conditions would be deemed to have returned to normal parameters in any region that has experienced a certain percentage of normal precipitation (for example, at least 100% of normal rainfall), has an April 1 snow water equivalent meeting a defined threshold (for example, at least 90% of normal snowpack), and has a minimum level of normal May 1 cumulative reservoir storage (for example, at least 90%). Such regions would then be listed in the proposed subdivision (h) of Section 865.

Within any hydrologic region that does not meet the first test, the SWRCB should analyze each major river watershed, again taking advantage of how DWR organizes its data. If a particular river watershed within a hydrologic region meets similar precipitation, snow water equivalent, and cumulative reservoir storage criteria, hydrologic conditions would be deemed to have returned to normal parameters and this river watershed would also be listed in subdivision (h).

On some limited basis, considering the magnitude of the watershed, the degree of urban water supplier reliance upon that watershed, and unusual disparities of conditions from one tributary to another, the SWRCB would similarly conduct a tributary-specific analysis and list qualifying tributaries in subdivision (h), as well.

The SWRCB should publicly define and consistently apply its thresholds for defining how the combination of precipitation, snowpack, and cumulative reservoir storage can constitute normal hydrologic parameters – for example, at least 100% of normal rainfall, 90% of normal snowpack, and at least 90% of normal storage.

Finally, the SWRCB should provide some sort of informal process by which one or more urban water suppliers could request reconsideration or new consideration of a particular river or tributary watershed, based upon circumstances unique to that basin.

The SWRCB’s analytical process should focus exclusively on surface-water conditions, because as the SWRCB has previously noted, similar analyses of groundwater conditions will likely prove too basin specific, too complex, and insufficiently objective and transparent to be timely or effective.



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

Not at all. It is not the State Water Board's responsibility to assess local water supply reliability, and the State Water Board has neither the resources nor the existing knowledge base to do so. If it attempted this task, the State Water Board would necessarily gather and rely upon information and assessments submitted by the local water suppliers, anyway. Rather than pursue this effort, the State Water Board should trust local water suppliers, who already have unmatched expertise and more importantly, are directly answerable to their customers, to assess their own situations and respond accordingly.

EID appreciates the SWRCB's willingness to revisit its extended regulation. In light of current conditions, the public's continued faith, goodwill, and willingness to cooperate in appropriate conservation measures demands rapid and decisive state action. Thank you for considering the District's comments.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Thomas D. Cumpston', is written over a faint, larger version of the same signature.

Thomas D. Cumpston
General Counsel

TDC:pj

cc: EID Board of Directors
Jim Abercrombie, EID General Manager
Brian D. Poulsen, EID Senior Deputy General Counsel
Brian Mueller, EID Engineering Director

**RESOLUTION OF THE BOARD OF DIRECTORS OF
EL DORADO IRRIGATION DISTRICT
TERMINATING ITS DECLARATION OF EMERGENCY
AND CONTINUING ITS DECLARATION
OF A STAGE 2 WATER WARNING
PENDING FURTHER ACTION
BY THE STATE OF CALIFORNIA**

WHEREAS, El Dorado Irrigation District (District) and California as a whole experienced dry conditions in 2012, 2013, 2014, and 2015; and

WHEREAS, statewide the 2014 water year was the third-driest on record, and water year 2015 was by far the driest on record; and

WHEREAS, in Resolution Nos. 2014-006, -010, -011, and 2015-010, the District's Board of Directors declared that then-current drought conditions constituted an emergency within the meaning of the California Environmental Quality Act, the Public Contracts Code, and District Board Policies and Administrative Regulations, and declared a Stage 2 Water Warning under the District's adopted Drought Action Plan; and

WHEREAS, the Board has ratified Resolution No. 2015-010 at each regular Board meeting since its adoption; and

WHEREAS, throughout these drought years, outstanding water conservation by District customers and prudent water-supply management by the District have enabled the District to supply its customers with water to the full extent allowed by the State of California; and

WHEREAS, as of March 15, 2016, the District's water-supply condition had returned to normal parameters: its largest reservoir, Jenkinson Lake, was full and spilling, the remainder of the District's reservoirs were full or projected to fill and spill in the coming weeks, Folsom Reservoir was making flood-control releases and its storage was 120% of average for the date, the California Department of Water Resources was predicting as of March 1 that unimpaired April – July 2016 runoff in the American River basin would be 82% of the historical average, and the region had experienced significant precipitation between March 4 and March 13, with more precipitation forecast for March 20-22; and

WHEREAS, in November 2015 Governor Brown extended his declaration of a statewide drought emergency and all of his previous drought executive orders, including the call for local urban water suppliers to implement their local water shortage contingency plans; and

1 WHEREAS, in February 2016 the State Water Resources Control Board (SWRCB) extended
2 its emergency water conservation regulations through October 31, 2016; and

3 WHEREAS, despite some modifications, including a decrease in the District's water conservation
4 mandate, the SWRCB regulations still mandate significant conservation by the District's customers
5 and still impose numerous specific bans or restrictions on their ordinary use of potable water; and

6 WHEREAS, the SWRCB regulations hold the District responsible for meeting its
7 conservation mandate and enforcing the end-user bans and restrictions; and

8 WHEREAS, the District has imposed the appropriate conservation mandate and created
9 enforceable end-use bans and restrictions by incorporating them into the Stage 2 Water Warning
10 level of the District's Drought Action Plan; and

11 WHEREAS, the SWRCB plans to review its extended regulations in April or May of 2016,
12 and might further adjust their requirements at that time, including the consideration of variances
13 from regulatory requirements based upon regional water supply conditions;

14 NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED by the Board of Directors of
15 the El Dorado Irrigation District (Board) as follows:

- 16 1. The Board hereby finds that the present water-supply conditions applicable to the District
17 and its customers make it appropriate to terminate the drought emergency declaration that
18 the District first declared on February 4, 2014.
- 19 2. The Board hereby finds that the present water-supply conditions applicable to the District
20 and its customers, standing alone, would warrant terminating the Stage 2 Water Warning
21 that the District first declared on February 4, 2014, and the resumption of normal District
22 operations and customer consumption.
- 23 3. The Board further finds, however, that at present, the SWRCB is still requiring the District
24 to meet the state-imposed conservation mandate and enforce the state-required end-user
25 bans and restrictions, and the Governor is still calling for local agencies to implement their
26 water shortage contingency plans.
- 27 4. Therefore, Board hereby rescinds Resolution No. 2015-010, thus terminating its drought
emergency, but hereby re-enacts and continues its declaration of a Stage 2 Water Warning,
solely for the limited purpose of meeting these state mandates so long as they remain in
effect.

- 1 5. Notwithstanding the continued Stage 2 Water Warning, the Board hereby directs the
2 resumption of normal Improvement District No. 97 releases to Clear Creek, because
3 sufficient water supplies are available for that purpose and the state mandates do not
4 necessitate continued reductions in those flows.
- 5 6. The foregoing Board findings, declarations, and direction are based upon all written, oral,
6 and visual evidence, including both facts and professional opinions, presented to the Board
7 at the hearing of this Resolution.
- 8 7. The Board hereby directs staff as follows:
 - 9 a. To transmit this Resolution to the SWRCB before it reviews its extended regulations
10 in April or May; and
 - 11 b. To request that the SWRCB revise its regulations without delay to eliminate the
12 District's conservation mandate and end-user bans and restrictions, in recognition of
13 the District's present water-supply conditions; and
 - 14 c. To send written notice to Improvement District No. 97 land owners, advising them of
15 the resumption of normal flows; and
 - 16 d. To communicate with all District customers to thank them for their conservation and
17 to explain the District's current water-supply situation, the reasons for the continued
18 Stage 2 Water Warning, and the need for continued conservation unless and until the
19 state changes course.
- 20 8. This Resolution shall take effect immediately upon adoption and remain in full force
21 and effect until rescinded by a subsequent Resolution of the Board of Directors.

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The foregoing Resolution was introduced at a regular meeting of the Board of Directors of the EL DORADO IRRIGATION DISTRICT, held on the 28th day of March 2016, by Director Coco who moved its adoption. The motion was seconded by Director Osborne and a poll vote taken which stood as follows:

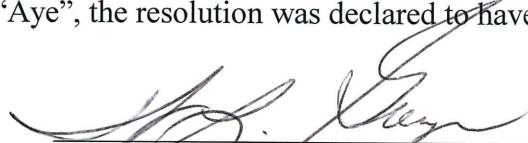
AYES: Directors Coco, Osborne and George

NOES: Directors Prada and Day

ABSENT:

ABSTAIN:

The motion having a majority of votes "Aye", the resolution was declared to have been adopted, and it was so ordered.


Bill George, President
Board of Directors
EL DORADO IRRIGATION DISTRICT

ATTEST:


Jennifer Sullivan
Clerk to the Board
EL DORADO IRRIGATION DISTRICT

(SEAL)

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I, the undersigned, Clerk to the Board of the EL DORADO IRRIGATION DISTRICT hereby certify that the foregoing resolution is a full, true and correct copy of a Resolution of the Board of Directors of the EL DORADO IRRIGATION DISTRICT entered into and adopted at a regular meeting of the Board of Directors held on the 28th day of March 2016.



Jennifer Sullivan
Clerk to the Board
EL DORADO IRRIGATION DISTRICT

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