



ALEXANDER R. COATE  
GENERAL MANAGER

January 28, 2016

VIA E-MAIL: [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)

The Honorable Felicia Marcus, Chair  
And Members of the State Water Resources Control Board  
c/o Clerk to the Board  
State Water Resources Control Board  
1001 – I Street, 24<sup>th</sup> Floor  
Sacramento, CA 95814



**Subject: February 2, 2016 BOARD MEETING (Conservation Extended Emergency Regulation)**

Dear Chair Marcus and Members of the Board:

East Bay Municipal Utility District (EBMUD) appreciates the opportunity to comment on the proposed Extended Emergency Regulation that was released on January 15, 2016. EBMUD has been actively participating in the California Urban Water Agencies forum, as well as a member of the Association of California Water Agencies, in providing feedback to the SWRCB as information was collected and analyzed. Urban agencies statewide, including EBMUD, have successfully implemented measures to achieve water savings during this unprecedented multi-year drought. We understand the statewide uncertainty regarding future drought extent and severity. EBMUD agrees that an assessment of the emergency regulations is necessary to address this uncertainty and meet the Governor's Executive Order that extends through October 2016. However, EBMUD has some fundamental concerns that we feel are not recognized as part of the Extended Emergency Regulation. We strongly believe these concerns need to be addressed so the adopted emergency regulations are applicable to all urban water agencies and align with the water shortage planning that most urban water agencies had invested in and are implementing for their communities.

**Reassessment of Hydrologic Conditions at the Regional Level**

Recommendation:

EBMUD recommends that the SWRCB consider regional and local water supply conditions and allow water agencies to submit a supply assessment as a basis for considering if and how to extend or revise mandated water use reductions under the emergency regulations.

Water supply conditions vary greatly throughout the State due to existing micro-climates. The SWRCB has acknowledged this variation and noted that water supply conditions will be assessed in April 2016 and the drought emergency requirements may be modified accordingly. However, we believe the SWRCB needs to give more emphasis on the hydrologic conditions at the regional level. For example, EBMUD's water supply system, which provides for 1.4 million people

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in the East Bay area, has historically shown it can recover from a multi-year drought if above normal precipitation and snow with high water content occur in our Mokelumne watershed. In fact, the latest water supply conditions as presented to EBMUD's Board of Directors on January 26, 2016 indicate that, at the 90th percentile (9 out of 10 years are wetter) and 50th percentile (average going forward), the modeled forecast for runoff and snow melt would bring EBMUD end-of-year September storage to between 495-630 TAF, which is essentially at EBMUD's water shortage trigger (<500 TAF) or fully restored ( $\geq$ 500 TAF). EBMUD customers have responded well to the ongoing drought, exceeding the state mandated 16 percent savings target, with a reduction in total production of 22 percent and reduction in single-family residential use of 31 percent. While EBMUD water savings are expected to continue (through long-term water use reduction requirements, i.e. "20 percent by 2020"), ongoing statewide emergency regulations imposing mandatory water use restrictions that do not acknowledge our water system returning to average or above average levels would run counter to EBMUD's adopted Water Shortage Contingency Plan (WSCP). The WSCP is a result of a complex assessment and public review process and provides the procedure to set restrictions based on individual water supply conditions. Running counter to the WSCP may undermine community support and possibly affect ongoing conservation efforts and customer relations. We recognize that equitability statewide will be a continuing concern and we hope for an ongoing dialogue with the SWRCB in support of long-term solutions to drought.

#### **No Time Restriction for Drought Resilient Projects**

Recommendation:

EBMUD requests the SWRCB to remove the time restriction and allow urban water agencies to receive credit for their advanced planning.

Developing local and regional drought resilient water supplies requires a tremendous level of investment in time, funding and community support. Putting a restriction of 'supply developed after 2013' is arbitrary and unnecessary. This restriction ignores and excludes many drought resilient projects undertaken by urban water agencies in the past decade or more. Most urban agencies have an adopted Water Shortage Contingency Plan as part of their Urban Water Management Plan which requires urban agencies to plan for water shortage conditions projected out 20 years, rather than quick, reactive modes which is what the '2013' restriction implies. This long-term planning positions the water agency to have in place the drought resilient projects that can be used when necessary. Urban water agencies must have flexibility in how they operate their systems and facilities to optimize their response and limit shortage impacts. Not recognizing the planning and investments made actually penalizes the urban agencies and their rate-paying customers who have been pro-active in their efforts.

#### **Expand Scope of Drought Resilient Projects to Include Non-Potable Projects**

Recommendation:

EBMUD requests that agencies making investments in non-potable projects receive credit for them.

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Non-potable projects, particularly those serving industrial uses, help urban water agencies conserve limited fresh water supplies. For example, EBMUD's RARE Water Project, which came online in 2010, provides up to 3.5 million gallons per day (MGD) of recycled water to the Chevron refinery in Richmond, thereby offsetting an equivalent amount of potable water. Investments of these kinds of drought resilient projects take years and tens of millions of dollars to construct and should not be excluded in the credit calculation.

#### **Long Term Regulations Process Already in Place**

Recommendation:

EBMUD recommends the SWRCB work with and support DWR and the legislative mandate to avoid a duplication of efforts that may lead to conflicting or confusing requirements that could undermine local efforts.

Long term conservation efforts are an important component of the Urban Water Management Plan which has a 20-year horizon. The Water Conservation Act of 2009 mandated a long term water use savings process for all urban water agencies that is currently administered by the California Department of Water Resources. DWR has worked with stakeholders to understand their needs and to develop guidance with their input. Resources would be better utilized to work with the existing long-term water saving requirements and support DWR in reassessing those as necessary. Any long-term regulation development process should be an open, transparent process that invites all stakeholder participation so regulations can be applicable to all water communities in California.

Thank you for your consideration of these comments. If you have any questions, please contact Richard Sykes, Director of Water & Natural Resources at [rsykes@ebmud.com](mailto:rsykes@ebmud.com) or (510) 287-1629.

Sincerely,



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cc: Tom Howard, Executive Director, SWRCB  
Mr. Eric Oppenheimer, Chief Deputy Director, SWRCB  
EBMUD Board of Directors