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COUNTY OF KINGS BOARD OF SUPERVISORS

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December 20, 2017

Attn: Ms. Charlotte Ely

State Water Resources Control Board

Office of Research, Planning and Performance

1001 "I" Street Sacramento, CA 95814

RE: Proposed Regulation of Wasteful and Unreasonable Water Uses



Dear Ms. Ely, Chair Marcus, and Members of the Board:

The County of Kings has serious concerns regarding the proposed regulation that would seek to define wasteful and unreasonable uses of water. While we appreciate the intent of the regulation, it seems arbitrary to propose state mandated conservation regulations that do not take into account local needs and the existing regulatory framework that agricultural producers and urban water suppliers have to work within to ensure that water resources are managed as efficiently as possible.

Investigations: Section 956

The County is concerned that the language in subsection (1) is too vague. The regulation does not define the "good cause" standard that a concerned citizen must meet before the board staff is obligated to conduct an investigation.

The County is also concerned regarding the specific language in §956 (2) that indicates the SWRCB staff shall investigate an alleged misuse of water "*when the board itself believes that a misuse may exist*". This language eliminates the good cause standard which results in an inconsistent mandate that holds an allegation brought forward by the SWRCB and their staff to a lower standard than that of a concerned citizen.

Furthermore, this presents an inherent conflict of interest for the board. While the board already has a conflict of interest between its investigative and hearing duties, this section would also put the board in the position of the party initiating the investigation. Because these actions are so

integrated within the same agency, it appears to be heavily prejudicial for any individual who is alleged to have committed a violation.

Both subsections indicate that the “good cause” or the “belief” standard must be met before the board staff undertakes an investigation. However, the regulation is silent as to who, specifically, within the agency is responsible for ensuring the requisite findings are met. Given the subjective nature of the standard for investigation, it is imperative that the board be as transparent as possible as to what the standard is, how the board staff will make the determination that the standard has been met, and who is responsible for that determination.

Monitoring and Enforcement

Section 956 indicates that the proposed regulation will be monitored and subsequent enforcement action will be taken on complaint driven basis. California is a very large state with a vast population and it seems neither practical nor feasible to insist that a regulation this broad could be monitored or enforced in any meaningful way.

Resources for water conservation are best invested in local projects that produce quantifiable water savings and benefit communities. The County is actively engaged with local stakeholders including our cities and community service areas to address water supply issues. However, conservation techniques that are going to be most impactful are those developed locally that directly relate to the community and are responsive to each community’s specific needs and concerns.

One of the benefits to allowing water conservation programs to be developed locally is that there is greater opportunity to work within our local communities to achieve a common goal which we much prefer.

Wasteful and Unreasonable Water Uses: Section 963

The County of Kings is an agricultural county that excels in production and processing of commodities that are marketed and sold globally. Milk is the highest valued commodity in Kings County, valued at over \$636 million dollars. By deliberately excluding the “cleaning, processing, or other similar post-harvest activities” from the definition of a beneficial use, it will have a significant impact on dairies that use water to clean and sanitize their tanks in compliance with food safety standards. Though this water is often recycled on-farm the proposed regulation gives no flexibility for these uses. The County of Kings also ranks fourth in counties in California for production of processing tomatoes and the County is home to a significant amount of large food processors that transform fruits, vegetables, and milk into marketable final products. Water is essential for the food processing operations that ensure that our local growers have facilities available to process their commodity and contribute greatly to our local economy.

We consider both, production and processing, to be agricultural activities and we strongly discourage any language that decouples the two for the purposes of defining a wasteful and unreasonable use. All agricultural production and processing activities for all products that are marketed domestically or globally are critical to maintaining our local economic activity. We encourage the board to expand the definition of commercial agriculture to include these uses of water.

Existing Mandates

The Water Conservation Act of 2009 (SBX7-7) requires that urban water retailers demonstrate a 20% reduction in demand by 2020 and in 2014, the legislature passed the Sustainable Groundwater Management Act which requires all medium and high priority basins adopt a groundwater sustainability plan and implement management actions locally to achieve sustainability over 20 years. Together, these two legislative mandates will ensure that water is conserved and managed efficiently at the local level. It is duplicative for the state to regulate on a micro-level what is and is not a wasteful and unreasonable use of water when these statutes already exist and shift the burden of producing measurable and quantifiable results to local agencies.

The proposed regulation is vague and contains ambiguities that must be addressed before moving forward. Furthermore, the limited definition of commercial agriculture will have many unintended consequences for the County and needs to be expanded.

We appreciate the opportunity to comment on the proposed regulation. While we respect the intent of the regulation, we believe the best way to ensure that our precious resources are not wasted or used unreasonably is to implement water conservation programs locally.

Sincerely,

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Craig Pederson

Chairman

Kings County Board of Supervisors