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**Martin E. Zvirbulis**  
Secretary/General Manager/CEO

December 21, 2017

Jeanine Townsend, Clerk to the Board  
State Water Resources Control Board  
1001 I Street, 24th Floor  
Sacramento, CA 95814



Subject: "Comment Letter – Prohibiting Wasteful Water Use Practices"

Dear Ms. Townsend:

The Cucamonga Valley Water District (CVWD) appreciates this opportunity to provide comments on the State Water Resources Control Board's (State Water Board) proposed draft regulation to permanently prohibit certain wasteful water uses. The proposal is intended, in part, to replace the emergency drought response regulation which recently expired on November 25, 2017.

CVWD has institutionalized water conservation practices and promoted the wise use of California's water resources long before the recent drought and have continued to since the drought was declared to be over last spring. CVWD along with most of California's urban water suppliers have already prohibited many of the "wasteful water uses" which were included in the emergency drought response regulation and now proposed for permanent statewide prohibition. Therefore, as the State Water Board's own analysis suggests, potential additional annual water savings associated with the State Water Board proposed prohibitions would be essentially inconsequential, and action on a statewide basis could be considered unnecessary.

Although many of the proposed prohibitions make sense and are already locally well-implemented and generally supported by Californians, CVWD has concerns about some of the more prescriptive details of the staff proposal. We recommend that some of the proposed prohibitions be amended and others be dropped, as described below and in other comment letters being submitted separately.

In addition, CVWD shares a more general concern about the State Water Board's intention to use its general authority to prevent "waste and unreasonable use" as a means to categorically prohibit certain water use practices without consideration of specific water use circumstances as required by law. Instead, we support reframing the State Water Board's action as requiring water users to *eliminate inefficient water use practices* and *maximize the beneficial use of water* through increased water conservation.

### **Proposed Prohibitions**

CVWD supports the following proposed prohibitions based on the principle of beneficial use, where water users are expected to manage their application of water to achieve the intended use without purposeless "waste":

- **Runoff from outdoor landscapes "...in a manner that causes runoff such that water flows onto adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots, or structures."**

**James V. Curatalo Jr.**  
President

**Luis Cetina**  
Vice President

**Oscar Gonzalez**  
Director

**Randall James Reed**  
Director

**Kathleen J. Tieg**  
Director

- **Uncontrolled flow from “...a hose that dispenses water to wash a motor vehicle, except where the hose is fitted with a shut-off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use.”**
- **“Use potable water in an ornamental fountain or other decorative water feature, except where the water is part of a recirculating system.”**
- **“Operators of hotels and motels shall provide guests with the option of choosing not to have towels and linens laundered daily. The hotel or motel shall prominently display notice of this option in each guestroom using clear and easily understood language.”**

CVWD supports the following proposed prohibitions with the indicated amendments (or functionally equivalent amendments as proposed by others), based on the need to preserve local discretion to administer the measures to address local conditions:

- **“Apply potable water directly to driveways and sidewalks”...*unless necessary to address a health and safety need.*** This amendment provides needed local flexibility to make necessary management decisions and eliminates a too prescriptive constraint posed by the term “immediate” in the staff proposal.
- **“Apply water to irrigate turf and ornamental landscapes during and within 48 hours after measurable rainfall ~~of at least one-tenth of one inch of rain~~”.** This amendment restores needed local flexibility to balance highly localized and variable rainfall patterns, site-specific landscape irrigation needs, and the technical limitations of rain sensors and irrigation controllers. This amendment is also in keeping with the wording of the previous emergency drought prohibition, which was effectively administered by local water suppliers.

CVWD opposes the following proposed prohibitions as being unnecessarily burdensome or too prescriptive. We believe that the effectiveness and details associated with these provisions are best left to the judgment of local water suppliers, based on local needs and conditions:

- **“Serve drinking water other than upon request in eating or drinking establishments, including but not limited to restaurants, hotels, cafes, cafeterias, bars, or other public places where food or drink are served and/or purchased.”** This is widely considered to be an effective emergency drought public education messaging tool, but it should be deployed by local water suppliers in the appropriate local water supply context to retain its effectiveness.
- **“Irrigate turf on public street medians or publicly owned or maintained landscaped areas between the street and sidewalk, except where the turf serves a community or neighborhood function.”** Irrigation of turf with potable or recycled water in any landscape context in California is not now, nor should it be considered *per se* a “wasteful” use of water. Landscaping and maintenance decisions associated with medians and adjacent parkways are subject to widely varying local considerations and expectations statewide. Local entities must exercise final judgment in determining “existing community or neighborhood function”, as suggested by the staff proposal. But, as described in many other comment letters from water agencies statewide, the specific cost implications and site-specific considerations associated with landscaping and irrigation of medians and parkways (including use of recycled water and irrigation methods to keep trees alive) renders imposition of a general statewide prohibition of this type highly burdensome and too prescriptive.

#### **Opposition to Use of the “Waste and Unreasonable Use” as the Legal and Policy Basis for Action**

CVWD agrees with the legal and policy arguments presented by the comment letter submitted by San Francisco Public Utilities Commission (SFPUC) in opposition to the State Water Board’s proposed use of its authority to prevent waste and unreasonable use to enact the proposed prohibitions. We are aware that similar arguments are

made in comment letter submitted by several other water suppliers. We agree with SFPUC that use of the proposal to declare certain water uses and practices *per se* "wasteful and unreasonable" by regulation "is contrary to law, inequitable to water right holders affected by the regulation, and contrary to the current state policy of encouraging water conservation without affecting water rights". CVWD urges the State Water Board to reframe the proposal as requiring water users to eliminate inefficient water use practices and maximize the beneficial use of water through increased water conservation, as described in SFPUC's letter.

Thank you for your consideration of these comments. Please contact Eric Grubb to discuss them by email or phone at [ericg@cvwdwater.com](mailto:ericg@cvwdwater.com) or (909) 987-2591.

Sincerely,

A handwritten signature in black ink, appearing to read "Martin E. Zvirbulis", with a stylized flourish at the end.

Martin E. Zvirbulis, P.E.  
General Manager/CEO