



TUOLUMNE UTILITIES DISTRICT

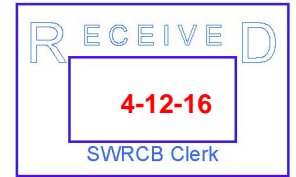
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April 12, 2016

Felicia Marcus, Chair
State Water Resources Control Board
1001 "I" Street
Sacramento, CA 95814-2828



Subject: Rescission of Emergency Regulation for Statewide Urban Water Conservation

Dear Chair Marcus,

This correspondence is sent by the Tuolumne Utilities District ("District") in response to the State Water Resources Control Board ("SWRCB") notice of a public workshop to be held on April 20, 2016, for the purpose of the SWRCB to solicit comment relative to the February 2016 *Emergency Regulation for Urban Water Conservation* ("Emergency Regulation") that extended the mandated conservation program originally imposed by the SWRCB and effective June 2015. The District is the sole surface water provider in Tuolumne County directly serving 30,800 persons along with many commercial businesses, a regional medical center, several urgent care centers and county, state and federal agencies, and through this letter provides comment relative to the Emergency Regulation.

Synopsis

The District recommends that the SWRCB rescind, or extensively relax, the Emergency Regulation as it relates to the District based on the distinctive watershed conditions of the District. The local April 1 snow reading and the unique method under which the District obtains its water supply contribute to the determination that local application of the Emergency Regulation is wholly unnecessary. Moreover, continued application of the Emergency Regulation imposes unnecessary harm to the District, and more importantly, the District's customers and the local economy in Tuolumne County.

SWRCB Request for Public Input

The SWRCB's *Notice of Public Workshop* poses several questions that will presumably be used by the SWRCB to inform its determination relative to potential modifications to the Emergency Regulation. The District addresses those questions here:

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

A: The District believes that the broad brush approach of the original Emergency Regulation, adopted amidst sustained weather patterns that reasonably forecast no substantial precipitation in California generally, has served its purpose, but should be substantially modified from the current one-size fits all scheme. While the original Emergency Regulation substantially conserved water during a period in which hydrological replenishment was notably absent, the regulation nonetheless also imposed economic harm to water purveyors, local economies and customers, and is no longer necessary in its current form in Tuolumne County and many other areas of the state as well.

The District receives its water by way of a contractual arrangement with Pacific Gas and Electric Company ("PG&E"), which water is derived from the South Fork of the Stanislaus River ("SFSR") watershed. Two reservoirs, owned by PG&E, provide capacity for the District's consumptive water, as well as, the water used by PG&E for hydroelectric power generation and environmental flows. The reservoirs, Pinecrest Lake and Lyons Lake are relatively small and will certainly fill to capacity in this season and will spill the greater

majority of runoff. The water supply for Tuolumne County resets itself each year based upon annual precipitation and accumulated snowpack. So long as the snowpack component is sufficient to both fill and spill from the Pinecrest and Lyons reservoirs, the District can receive its full contractual allocation of water for consumptive and agricultural uses without impacting other uses of water. As of April 1, 2016, the snowpack survey is at 105% of normal at Lower Relief Valley and 102% of normal at Gianelli Meadow. This means that the watershed will produce more than enough water for the nominal uses of District customers, maintain regulatory compliance for flow and reservoir elevations supporting recreation and will provide ample water for PG&E power generation based on historic data. In short, the watershed resets *each year* with local snowpack determining if sufficient water supply will be available for our rural county users. These facts define the unique circumstance under which our local watershed operates and sets the foundational reason that the Emergency Regulation should be relaxed for District customers and why the SWRCB should consider such factors when making determinations as to the application of its Emergency Regulation. The watershed will produce well above average water flows, so why penalize county users for the production of the watershed under these conditions? We believe doing so is unnecessary.

Q: 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?

A: The SWRCB should consider individual local watersheds when advancing or extending the mandatory regulations. For instance, during the current water year, the SFSR watershed has operated better than normal when compared against historic data available since 1976. What's more, the SWRCB should recognize individual watersheds, such as SFSR, that can meet both environmental flows and consumptive use demands and lower or eliminate conservation measures. In the District's case, customers can receive their contractual allotment of water from PG&E without reduction because the watershed, in 2016, will produce greater than average historic amounts of water that will also allow for required environmental flows.

The SWRCB should also consider the procurement method under which agencies such as the District receive their water. Though the District assumed the maintenance and operational responsibilities of water delivery to Tuolumne County customers, PG&E retained the water rights and uses the vast majority of water in the watershed to produce hydroelectric power through its Spring Gap and Phoenix Powerhouses. Current year water now lost to conservation by District customers, inures to the benefit of hydroelectric generation and not District customers, or is simply lost to others. This is a substantial hardship to District customers, businesses and the local economy in Tuolumne County.

The SWRCB should consider the elevations, terrain and rural nature of territory served by local water purveyors. The conservation mandate should be mitigated where the rural nature of the service territory itself reduces the impact of irrigable landscaping that is less prevalent in these locations as compared to the urbanized environment. To this end, local water purveyor's should be left to develop and impose, if necessary, a local conservation mandate that considers the totality of local watershed conditions and that can be more nimble and surgical in application of conservation to meet local conditions.

The SWRCB should also consider the totality of success of local conservation efforts when evaluating whether to rescind or relax local water conservation mandates. In 2014, state imposed regulatory requirements, coupled with low precipitation, produced a unique situation in which the local water supply was in doubt. The District imposed *its own* substantial local mandatory conservation requirements, and customers achieved over 40% conservation in the summer months. Then, again, in 2015/16 District

customers overachieved the SWRCB's mandatory conservation levels by 7% through February 2016. In addition, the District *and other agencies in similar conditions* have met and exceeded the water use reductions outlined by SBX7-7 through the water management practices of their Urban Water Management Plans. These circumstances demonstrate the ability of District water users to meet conservation requirements when local hydrologic conditions warrant. With the SFSR watershed at 105% of normal water content in the existing snowpack, the relevancy of the state imposed Emergency Regulation no longer exists. With a local watershed that resets itself each year the District has demonstrated its ability to react to drought conditions by achieving greater than necessary conservation levels. But, doing so again this year is not necessary.

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

A: Natural operation of contributing watersheds should be considered on an individual basis by the SWRCB in evaluating water supplier portfolios for reliability. As identified in the discussion above, in the District's case, the SFSR watershed resets itself as to the quantity of water produced on an annual basis. Approximately 30% of the average natural flow will guarantee that the two local reservoirs will fill, which is sufficient supply for the consumptive use of District customers. As of the April 1, 2016, snow survey, the SFSR is predicted to have well over 100% of the average natural flow perhaps 5 times the minimum amount necessary to provide for a local consumptive water supply based on the District's contract with PG&E. The District's history and the history of the District's precursor water agencies shows that the amount of water to be produced based on local conditions this water year will be far in excess of the amount necessary to serve the District. The Emergency Regulation should therefore be rescinded for the District.

Also, as mentioned above, a water purveyor's history in achieving water conservation goals should also be considered. In the District's case there exists clear and convincing evidence that water conservation goals, when necessary based on a demonstrated lack of water, can be over-achieved.

Accordingly, and for the reasons hereinbefore set forth, the District respectfully requests that the SWRCB's Emergency Regulation be rescinded as to the District, and other similarly situated water purveyors.

Very truly yours,



Thomas J. Haglund
General Manager

Cc: Tuolumne Utilities District Board of Directors
Tuolumne County Board of Supervisors
Tuolumne County Administrator