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April 22, 2015

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

RE: Comments – Proposed Text of Drought Emergency Water Conservation Regulations

Transmitted Electronically: Jessica.Bean@waterboards.ca.gov

Dear Chair Marcus:

Thank you for the opportunity to offer these comments on your proposed text of emergency drought regulations. As you know from our previous comments and discussions, California homebuilders are prepared to team with Governor Brown, local water suppliers and the public at large to highlight the innovative water-efficient measures – indoor and outdoor – that builders employ in their developments and in doing so demonstrate the substantial co- benefits associated with new residential construction.

In the accompanying *General Information* fact sheet the Board notes that its task is to "... implement a regulation which is equitable, achievable and enforceable for every urban water supplier in the state ..." We agree with this and would add that implementation must be undertaken in a manner that avoids substantial "big bang" disruptions to the overall economy and, in particular, to the delivery of new housing.

Sec. 864 End-User Requirements in Promotion of Water Conservation

- **Application to newly constructed homes**

Section 864 specifies actions that are prohibited in order to promote conservation and prevent the waste and unreasonable use of water. Specifically 864 (a) (8) prohibits: *The irrigation with potable water outside of newly constructed homes and buildings that is not delivered by drip or microspray systems.*

As we pointed out in our April 13 comment letter, it is critical for purposes of clarity and success of implementation that the regulations identify the specific point in the residential approval process that the new requirements are to become applicable to new homes and buildings.

We recommend that Section 864 (a) (8) be amended as follows:

(8) The irrigation with potable water outside of newly constructed homes and buildings that is not delivered by drip or microspray systems.

(i) For purposes of this Article, "newly constructed homes" are:

(A) Dwellings for which an application for a building permit is first submitted after the effective date of this paragraph.

(B) If the dwelling is offered for sale, then in addition to meeting the requirement of (A), the purchase agreement is signed by the buyer and seller after the effective date of this paragraph.

(ii) For purposes of this Article, “newly constructed buildings” are structures, other than newly constructed homes, for which an application for a building permit is first submitted after the effective date of this paragraph.

- **Application to commercial, industrial & institutional properties**

Section 864 (c) identifies conservation standards for commercial, industrial and institutional (CII) properties not served by an urban water supplier. CII properties must either limit outdoor irrigation to two days a week or achieve a 25% reduction in potable water usage from the 2013 baseline. As we read this language we are concerned that by invoking Water Code Section 350¹ the impression is created that by “... meeting the requirements of section 350 ... ”this affirmatively positions a water emergency declaration as a prerequisite to applying the CII conservation standards. An emergency declaration should not be relevant to the application of water restrictions in the CII category. This issue can be resolved by amending section 864 (c) as follows:

(c) Immediately upon this subdivision taking effect, all commercial, industrial and institutional properties ~~not~~ served by a water supplier ~~meeting the requirements of that is neither an urban water supplier as defined in Water Code section 10617 or nor a distributor of a public water supply whether publically or privately owned, and including a mutual water company~~ ~~section 350~~ shall either:

- (1) Limit outdoor irrigation of ornamental landscapes or turf with potable water to no more than two days per week; or
- (2) Reduce potable water usage by 25 percent for the months of June 2015 through February 2016 as compared to the amount used for the same months in 2013.

Sec. 865 (f) (2) Mandatory actions for distributors not urban water suppliers

Proposed regulation 865 (f) (2) requires non-urban water suppliers to submit a report to the Board to include total potable water production or confirmation that the distributor limited outdoor irrigation to persons it serves to no more than two days per week.

The regulation contains the following language that is of concern to us: “Each distributor of a public water supply, as defined in Water code section 350 ...”

As we read Water Code section 350 it does not define *distributor of a public water supply* rather it merely references it as follows: *distributor of a public water supply, whether publically or privately owned and including a mutual water company.*

We recommend that section 865 (f) (2) be amended as follows:

- (2) Each distributor of a public water supply, ~~whether publically or privately owned and including a mutual water company as defined in Water Code section 350~~, that is not an

¹ 350. The governing body of a distributor of a public water supply, whether publicly or privately owned and including a mutual water company, may declare a water shortage emergency condition to prevail within the area served by such distributor whenever it finds and determines that the ordinary demands and requirements of water consumers cannot be satisfied without depleting the water supply of the distributor to the extent that there would be insufficient water for human consumption, sanitation, and fire protection.

urban water supplier shall submit a report by December 15, 2015, on a form provided by the Board, that includes:

- (A) Total potable water production, by month, from June through November 2015, and total potable water production, by month, for June through November 2013; or
- (B) Confirmation that the distributor limited outdoor irrigation of ornamental landscapes on turf with potable water by the persons it serves to no more than two days per week.

Encourage investments in local water supplies

As noted in our letter of April 13, we continue to encourage the Board to recognize self-reliance efforts and investments undertaken by local agencies that diversify and “drought-proof” their local supplies. Requiring customers in such areas to reduce demand even though supplies they financed exist seems to us to be counter-productive.

Thank you again, for the opportunity to offer these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Lyon". The signature is fluid and cursive, with a large initial "R" and a long horizontal stroke at the end.

Richard Lyon
Senior Vice President