



County Administrative Office

Gregory C. Devereaux
Chief Executive Officer

(5/5-6/15) Board Meeting- Item 6
Emergency Conservation Regulation
Deadline: 5/4/15 by 10:00 am



May 4, 2015

Ms. Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814
By email to: commentletters@waterboards.ca.gov

RE: Comment Letter – Emergency Conservation Regulation

Dear Ms. Townsend:

The County of San Bernardino (“County”) appreciates the opportunity to submit to the Honorable Members of the State Water Resources Control Board its comments on the proposed Drought Emergency Water Conservation Regulation (“Proposed Text of Emergency Regulation”) that the Water Board will consider on May 5 and May 6, 2015.

On April 22, 2015, the County submitted comments on the draft Drought Emergency Water Conservation Regulations and Approach released April 18, 2015 (“Draft Regulations and Approach”). The County has now reviewed the Proposed Text of Emergency Regulation issued on April 28, 2015. It appears that the Proposed Text of Emergency Regulation does not address any of the technical comments provided by the County on the Draft Regulations and Approach, many of which were raised by other commenting counties and interested parties.

County as a Regional Government Agency

The County is committed to improved conservation of the State’s precious water resources as is being sought by Governor Brown during the current extreme drought. The County recognizes conservation is important not only today, but also to ensure water reliability to accommodate the population and economic growth the State will experience in the years to come. And, the County supports collaborative, regional solutions – an approach initially entertained by Water Board staff when developing the Emergency Conservation Regulation and supported by the County and other agencies in our county (e.g. April 22, 2015 comment

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letter from the Basin Technical Advisory Committee), but which is missing from the Proposed Text of Emergency Regulation.

The County encourages the State Water Board to adopt an Emergency Conservation Regulation that permits retail water suppliers in a region to join together to achieve the conservation standard sought by the State.

Regional collaboration is a key principle behind the San Bernardino County Countywide Vision Project. In 2010 and 2011, the County and its 24 cities and towns through its council of governments, San Bernardino Associated Governments (“SANBAG”), sought input from members of the community about the future they desired. This effort resulted in the June 30, 2011 adoption by the County Board of Supervisors and SANBAG Board of Directors of a San Bernardino County Countywide Vision statement that summarized the community’s desire to collaboratively build a sustainable county. Following the adoption of the Vision, stakeholder groups formed around elements of a complete community to identify their priorities for the future, common interests and opportunities for collaboration.

One of those element groups has been working since January 2012 to develop a countywide, long-range, water sustainability strategy. The Water Element Group’s effort marked the first time that San Bernardino County endeavored to address its water needs in a comprehensive, collaborative environment that incorporated multiple watersheds. The Group started by evaluating the current landscape of our water supply and resources by compiling data from six regional 2010 Urban Water Management Plans covering a combined service area that is home to 98 percent of the county’s population. The result of this survey was a countywide water inventory that revealed the San Bernardino County has enough water for its expected population and economic growth through 2035, only if its residents, businesses, government agencies and institutions conserve more water and work together to protect, invest in and manage its water supply.

The County has continued to facilitate the work of the Water Element Group by bringing all parties to the table to discuss how to better coordinate city and County land use planning and regional water management. The Group has also compiled a countywide inventory of water conservation programs to encourage the implementation of the best practices throughout the county and created a map that identified land recommended for future local water recharge projects to ensure our groundwater supplies are replenished and sustained as our communities build out. And now, the Group is discussing how the County, cities, water agencies and developers might work together on the 2015 Urban Water Management Plans in a more collaborative and informed way. This important task could prove more difficult if the State Water Board does not permit and encourage regional, collaborative strategies to achieve additional water conservation.

County as an End-User of Water

The County recognizes it is a significant end-user of water and is committed to conserve where it can. However, the County's compliance with specific health, safety, sanitation and hygiene requirements regarding water use in its jails and hospitals should not cause the other customers of the urban water suppliers serving its jails and hospitals to have to conserve more than their fair share. The Proposed Text of Emergency Regulation appears to cause this unfortunate result.

Section 865(e) of the Proposed Text of Emergency Regulations provides eligible urban water suppliers with the opportunity to subtract the amount of water they supply for commercial agricultural use from their water production total for the purpose of calculating the percentage of water conserved by the water suppliers. The County proposes that the State Water Board adopt an Emergency Conservation Regulation that provides eligible urban water suppliers the additional opportunity to subtract the amount of water they supply for indoor use at institutions that are subject to specific health, safety, sanitation and hygiene requirements regarding the use of water, such as jails and hospitals. This proposal was also advocated by the County of San Diego and the California State Association of Counties in their separate April 22, 2015 comment letters.

The County, through its Sheriff's Department, operates four type 2 jail facilities throughout the County – West Valley Detention Center, Central Detention Center, Glen Helen Rehabilitation Center, and High Desert Detention Center – and four smaller type 1 jail facilities. The average daily inmate population is 6,500. Annually, about 70,000 persons are booked into these jails.

The County's indoor use of water in its jails is impacted by the following sanitation and hygiene laws:

- Title 15 of the California Code of Regulations Sections 1262 and 1263 require clothing exchange and adequate clothing supply twice a week for undergarments and once a week for outer garments, but more frequently if necessary. Bedding is also changed at least once a week. This necessitates laundering large volumes of clothing on a continuous basis. Section 1266 of Title 15 of the California Code of Regulations requires showering at least every other day and more often if possible. Frequent showering is necessary to maintain good inmate personal hygiene to prevent diseases and ensure institutional tranquility as inmates live in close proximity to each other.
- Title 15 of the California Code of Regulations Section 3052 requires compliance with health and safety standards for food handling and sanitation as required by Health and

Safety Code Sections 113945 through 114259.4 (California Retail Food Code). This requires frequent hand washing and surface cleaning.

- Title 24 of the California Code of Regulations Section 1231.3.4 requires ready availability of showers and toilets to which inmates have nearly unfettered access for the purposes of health and sanitation.

The County has installed high efficiency laundry washer/extractors and programmable water technologies in its jails to limit inmate water usage and minimize waste.

The County also operates the Arrowhead Regional Medical Center on a 70-acre campus in Colton, containing a 456-bed hospital and a separate 90-bed psychiatric unit – each with an emergency room – and a primary care center offering more than 40 outpatient specialty care services. Each day, an average of 1,304 people receive medical and mental health care at the facility. In 2014, 24,456 patients were admitted to the hospital, 108,773 people visited the emergency room and 245,169 people received outpatient services.

Hospitals are mandated to comply with specific sanitation and hygiene requirements pursuant to Title 22 of the California Code of Regulations Sections 70827 and 71631, which include, but are not limited to, the daily cleaning of patient areas, nurses' stations, work areas, halls, entrances, storage areas, restrooms, laundry, pharmacy, offices, specialized areas, isolation areas, kitchen, and associated areas etc. Hospitals must also maintain at least three bed changes supply of clean linen for all the beds in the hospital, which linen is laundered according to the following requirements:

All linens shall be washed using an effective soap or detergent and thoroughly rinsed to remove soap or detergent and soil. Linens shall be exposed to water at a minimum temperature of 71 degrees C (160 degrees F) for at least 24 minutes during the washing process. (22 CCR 70825(a)(4).)

Additionally, the Center for Medicare and Medicaid Services Conditions for Participation at 42 C.F.R Section 482.41 (a)(2) requires a hospital to provide emergency gas and water as needed to provide care to inpatients and other persons who may come to the hospital in need of care.

As these essential facilities are located within the jurisdictions of only a small percentage of the retail water suppliers the serve the numerous County facilities throughout this expansive county, the County supports the State Water Board's adoption of an alternative credit system approach similar to the one proposed by the County of San Diego in its April 13, 2015, April 22, 2015 and May 1, 2015 comment letters. Allowing customers served by multiple water

suppliers to accrue credits for water conserved above and beyond one of its water supplier's directed conservation target that can then be transferred and used to comply with another water supplier's conservation target will still enable retail water suppliers to achieve the cumulative conservation sought by the Governor.

This approach would enable large institutions served by many water suppliers to aggressively conserve water where they are able and ensure that they are not penalized for facilities at which additional water conservation is not feasible. It will also ensure the other customers of the water suppliers that serve these essential facilities will not have to conserve more than their fair share. Such water credits could be certified by the issuing water supplier on a monthly basis and then transferred to another or multiple water agencies. Cumulative conservation could be managed online through a type of water banking system. The State already allows energy customers to credit electricity produced by solar facilities at one meter as against other meters within the same utility under the net energy metering aggregation (NEMA) and renewable energy system – bill credit transfer (RES-BCT) programs. The County's proposal is analogous to the energy credit programs, except that instead of the utility managing and overseeing the credit transfers within its billing system, the State Water Board or its designee would manage and oversee the credit transfers across multiple water suppliers.

Please note that given the short comment period for the Proposed Text of Emergency Regulations, the County Board of Supervisors has not adopted an official position on the Proposed Text of Emergency Regulations. However, to assist the State Water Board with its efforts to implement the Governor's Executive Order B-29-15, the County Administrative Office provided the above comments on the Proposed Text of Emergency Regulations issued on April 28, 2015.

We are available to provide any further assistance so that the State Water Board clearly understands the positions taken by the County. Also, should you wish to discuss the County's comments, I can be reached at (909) 387-4384. Additionally, Josh Candelaria of the County Administrative Office's Legislative Affairs Unit may be reached at (909) 387-4821.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bob Page".

Bob Page
Principal Management Analyst, Special Projects
County Administrative Office
County of San Bernardino