



May 3, 2015

Felicia Marcus, Chair
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95812-2000

Re: Comments on 4-28 Draft Emergency Regulation Implementing 25% Conservation Standard

Dear Chair Marcus and Members of the Board:

On behalf of the Natural Resources Defense Council (NRDC), I am writing with regard to the Draft Emergency Regulation to implement the urban conservation standard called for in the Governor's April 1, 2015 Executive Order. We appreciate the opportunity to submit these comments to the State Water Resources Control Board (State Board or Board) in response to the request for additional feedback on the draft regulation released April 28.

We commend the State Board and staff for moving quickly to develop regulations to implement the Governor's unprecedented call for mandatory statewide urban water use reductions of 25%. We recognize the urgent need to preserve supplies of drinking water for essential health and safety functions for the remainder of this year and into 2016. Before taking final action this week, we urge the Board to resolve two issues that we have raised in past comments – issues that relate directly to the need to spread the necessary reductions fairly among all suppliers of potable water throughout the state.

Exclusion of Potable Water Supplied for Commercial Agricultural Use

The Board's proposed sweeping exclusion for potable water used for commercial agriculture from an urban water supplier's water production for purposes of setting conservation standards is a serious flaw in the emergency regulations. Several districts have high GPCD resulting in large part from the use of publicly supplied potable water to serve suburban ranchettes planted with avocados and citrus.¹ While meeting the very broad definition of "commercial agriculture" in Government Code section 51201, the large homes, tennis courts, and swimming pools interspersed with these small groves and irrigated horse pastures belie the essentially residential

¹ For example, Rancho California Water District's 2010 Urban Water Management Plan identified 30% of its *potable* water as going to agriculture. Agricultural potable deliveries were 16,695 acre-feet out of 57,434 acre-feet of all potable water, and projected to grow to 20,000 acre-feet in 2015 and 2020. This is small tract "agriculture" – delivered through over 10,000 individual service connections.

nature of this use of publicly supplied drinking water. Hobby farms and ranchettes² are essentially a lifestyle choice for some California residents, a choice free to be made but one that should not entitle their water suppliers to exclude large quantities of their water production from the targeted reductions that must be apportioned statewide if the State is to achieve the 25% reduction in urban water use under the Governor's Executive Order.

Upon adoption of the rule, each purveyor will retain considerable flexibility in how it goes about meeting its water use reduction target. Considerations of tree maintenance will undoubtedly come into play, and the needs of water-dependent commercial agricultural customers, such as nursery wholesalers and small truck farms, will very likely be heard. At this stage of the drought, the Board ought not to employ an expansive definition of "commercial agriculture" to designate uses of publicly supplied drinking water that will "not count" for purposes of setting water use reduction targets for urban water suppliers.

At a minimum, the proposed language of Section 865 should be modified to retain potable water deliveries to tracts of 5 acres or less within the water supplier's total potable water production subject to the conservation standard, as follows –

(e) Each urban water supplier that provides 20 percent or more of its total potable water production for commercial agricultural use meeting the definition of Government Code section 51201, subdivision (b) may subtract the amount of water supplied to parcels greater than 5 acres in size for commercial agricultural use from its potable water production total, provided the supplier complies with the Agricultural Water Management Plan requirement of paragraph 12 of the April 1, 2015 Executive Order. Each urban water supplier that serves 20 percent or more of its total potable water production for commercial agricultural use meeting the definition of Government Code section 51201, subdivision (b) shall certify that the agricultural uses it serves meet the definition of Government Code section 51201, subdivision (b), and shall report its total potable water production pursuant to subdivision (b)(2), identifying the total amount of potable water supplied for commercial agricultural use.

Exclusion of All Water Suppliers Not Classified as Urban Water Suppliers

In previous comments, we noted that some public water suppliers that are not urban water suppliers may serve populations as high as 9,000 to 10,000 persons. We still believe that there is no compelling reason to exclude public water suppliers of this size from the emergency regulation's monthly water reporting and target setting, and we are doubtful that restricting landscape irrigation to two days per week – the compliance path for such systems offered by subdivision 865(f)(1)(A) -- is likely to achieve 25% reductions in water use.

Furthermore, the reporting requirements of subdivision 865(f) are such that the Board will be ill prepared in December to move rapidly to set specific quantitative targets for this group of water

² See the Bureau of Reclamation memorandum distinguishing hobby farms from commercial agriculture: "Policy for Providing Service to Small Agricultural Tracts and Suburban Lands," R. N. Broadbent, Commissioner, December 6, 1982.

suppliers. Reporting of water production in 2013 and corresponding months of 2015 should be required of *all* water suppliers, not simply those that fail to document compliance with subdivision (f)(1)(A), because this subdivision simply requires the implementation of measures, rather than the achievement of actual water savings. If severe drought conditions persist into 2016, the Board will need to move swiftly to bring this cohort of water suppliers into the framework of targeted water use reductions now being established for urban water suppliers. To do that, the Board will need to have 2013 and 2015 potable water production data in hand.

We recommend that subdivision 865(f)(2) be modified as follows –

(f)(1) To prevent waste and unreasonable use of water and to promote water conservation, each distributor of a public water supply that is not an urban water supplier shall take one or more of the following actions:

(A) Limit outdoor irrigation of ornamental landscapes or turf with potable water by the persons it serves to no more than two days per week; or

(B) Implement another mandatory conservation measure or measures intended to achieve a 25 percent reduction in potable water consumption by the persons it serves relative to the amount consumed in 2013.

(2) Each distributor of a public water supply that is not an urban water supplier shall submit a report by December 15, 2015, on a form provided by the Board, that ~~either confirms compliance with~~ documents its implementation of subdivision (f)(1)(A) ~~or~~ and identifies total potable water production, by month, from June through November, 2015, and total potable water production, by month, for June through November 2013.

Conclusion

Thank you for the opportunity to provide comments on the revised Draft Emergency Regulation. If you have any questions or comments, please do not hesitate to contact me.

Sincerely,



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