



December 2, 2015

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

Dear Ms. Townsend,

Subject: Comment Letter – Urban Water Conservation Workshop



The Municipal Water District of Orange County (MWDOC) appreciates the opportunity to comment on the extension and modification of the Emergency Regulations for state-wide urban water conservation in advance of the workshop scheduled on Monday, December 7, 2015. MWDOC agrees that an extension of the Emergency Regulations to conserve urban water supplies in 2016 is needed due to the impacts of our unprecedented four-year drought. This year, the state's first priority should be to refill reservoirs and groundwater basins not knowing how long the drought will last and that years following an El Nino will likely be dry.

MWDOC is a wholesale water supplier and resource planning agency. MWDOC delivers this water to its 28 client agencies, which provide retail water services to 2.3 million people. Our efforts focus on sound planning and appropriate investments in water supply development, water use efficiency, public information, legislative advocacy, water education, and emergency preparedness. MWDOC's service area covers all of Orange County, with the exception of the cities of Anaheim, Fullerton, and Santa Ana. Local water supplies meet over half of Orange County's total water demand.

The State Water Resources Control Board (State Board) has implemented a system with equity as a core consideration. This is an important consideration. However, equity is an abstract concept that, in practice, means different things to different people. There is not universal opinion that the current system is equitable. It does include bias between inland and coastal areas, large and small lot areas, and urban and rural areas. Further, the 25% water savings goal is fundamentally arbitrary and not based on water use efficiency targets. There is some degree of equity because all agencies have conservation standards, but many of the proposed stakeholder modifications are based on improving equity considerations. Equity should trump a ridged water savings goal. The State Board should consider a slight variation to a zero-sum goal. Flexibility by the State Board will be required to achieve a higher level of equity in extended Emergency Regulations.

MWDOC provides the following refinements to the emergency conservation regulatory framework for consideration by the State Board. These refinements support the Governor's Executive Order issued on November 13, 2015, where he states that "[t]he Water Board shall consider modifying its existing restrictions to address uses of potable and non-potable water, as well as to incorporate insights gained from existing restrictions." We also emphasize that it is essential that the extended Emergency Regulations be reviewed in April 2016 to determine if adjustments to the conservation standards are warranted.

These refinements focus on the three questions posed by the State Board in their Notice of Public Workshop on Urban Water Conservation dated November 6, 2015. Following these refinements, we provide more general comments focusing on the potential for permanent regulations beyond the extended Emergency Regulations.

1. What elements of the existing Emergency Regulation, if any, should be modified in an extended Emergency Regulation?

State Board staff convened a small group of stakeholders in the water community to get preliminary input on issues to be considered should the Emergency Regulation be extended due to continuing drought conditions into 2016. Several proposals emerged from this process to modify the Emergency Regulation.

Growth Adjustment – An obvious equity issue, growth between 2013 and now has been considerable in some areas. It is only fair that an adjustment be made. As California continues to recover from the recession, water agencies have been experiencing considerable growth in their customer bases from 2013 to present. Conservation targets were based on the service area population in 2013; growth since then has effectively resulted in a required demand reduction higher than the assigned conservation standards for those agencies. This results in a disproportionate hardship on growing communities and may impact continued economic recovery. To improve equity within the Emergency Regulations framework, we ask the State Board to include a growth adjustment in the extended Emergency Regulations. MWDOC supports the proposed Growth Equity Adjustment framework presented to the State Board over the past few months.

Regional Compliance – Orange County water agencies have a long history of collaboration focusing on water use efficiency, water supply, and reliability. Orange County represents the largest Regional Alliance in the state, committing to exceed local goals established in the Water Conservation Act of 2009. To meet our regional goal, we adopted the Orange County Water Use Efficiency Master Plan, which was developed through a broad stakeholder-based process that included water agencies, cities, environmental organizations, and members of the public. This Plan established annual targets for a portfolio of water use efficiency programs and investments over a 5-year period. The Orange County Regional Alliance is well on its way to exceed its 20% by 2020 goal.

As another example, MWDOC has led the development of several Water Supply Reliability Studies in partnership with all water and wastewater agencies in the county over the past twenty years. Currently, we are updating our Water Supply Reliability Study with a 25 year planning horizon. Nearly one hundred planning scenarios are being considered, including climate change, population growth, expansion of recycled water, likelihood of the California Water Fix, just to name a few.

In the spirit of continuing this county-wide collaboration, we ask the State Board to include a Regional Compliance option for groups of agencies to meet or exceed their collective water savings goals in the Emergency Regulations. If the region is successful at meeting the regional conservation standard, all water agencies in the region would be deemed successful. If the region is unsuccessful at meeting the regional conservation standard, each agency would need to meet its individual conservation standard. A regional approach will allow for more consistent messaging to the public, economies of scale for media buys, and more collaboration among water agencies. MWDOC has participated in the development of and supports the proposed Regional Compliance framework presented to the State Board over the past few months. This Regional Compliance Option maintains the original water conservation standards for each agency and the state's goal of 25 percent.

Recycled Water – Indirect Potable Reuse (IPR) should be treated on equal footing to Purple-Pipe (Purple-Pipe) recycled water. This can be achieved through the proposed Sustainable Water Supply Adjustment. According to the state's Recycled Water Policy and the California Water Action Plan, the development of recycled water is a "valuable resource" in California. The state has established a goal to increase the use of recycled water, over 2002 levels, by at least one million acre-feet per year by 2020. Orange County alone is recycling more than 144,000 AFY, contributing more than 14 percent of the state-wide goal. This long-term sustainable supply option makes local sense and is drought resistant, reliable, minimizes our carbon footprint, and reduces imported water need.

If implementation of the Sustainable Water Supply Adjustment proposal is deemed too aggressive by the State Board at this time, than at a minimum, IPR should receive the same treatment as Purple-Pipe recycling.

Table 1 provides an example of how traditional Purple-Pipe recycled water use and IPR are treated differently in the Draft Regulations. In the scenario described below, two agencies decide to invest in the development of recycled water. Both agencies have a total water demand of 10,000 acre-feet per year. The table attempts to demonstrate how these two types of recycled water are treated differently in the Emergency Regulations.

Both agencies reduce their demand for imported water by 3,000 acre feet; Purple-Pipe gets credited, but IPR does not. The Purple-Pipe agency base period RGPCD is 156,

while the IPR agency base period RGPCD is 223. These agencies are assigned conservation standards of 28% and 36% respectively.

The current Emergency Regulations Implementing 25% Conservation Standard do not treat these agencies in a consistent manner for a similar investment. The Conservation Standard in effect nets out Purple-Pipe recycled water because potable water production does not include recycled water. Conversely, the Conservation Standard does not net out IPR because it is included in total potable water production. Both agencies invested in recycled water, both advance the state goals, and both should be treated similarly. In fact, IPR allows for water to be used multiple times as waste water is recycled through the replenishment system over and over.

To advance the stated goals of California and the State Board, and to put IPR on equal footing with traditional recycled supplies, we ask the State Board to treat IPR equal to Purple-Pipe recycled water by reducing potable water production by the amount of IPR. Agencies benefiting from IPR would still be assigned to an appropriate conservation standard by using their adjusted RGPCD, netting out volume of production that is IPR.

The current Emergency Regulations do have an impact on project planning and investment decisions by local agencies. Coupling a continued commitment to achieve increased water efficiency and the Sustainable Supply Credit provides a balanced approach to manage our way through current and future drought. The state should be encouraging the development of sustainable local water supplies. This treatment of recycled water would encourage and reward future investments in local supply development and assist the state in meeting its recycled water goals established in the Recycled Water Policy and in the California Water Action Plan.

However, if the State Board believes this proposal will take more time to implement than currently available, at a minimum the State Board should provide equity between recycled water and IPR. It is essential that the State Board properly encourage the investment in IPR.

Further, while the separately proposed Recycled Water Adjustment raises reasonable issues, the inequitable treatment of IPR needs to be corrected before this proposal is considered.

Table 1	
Comparison of how Traditional Recycled Water and Indirect Potable Reuse are Treated within the Emergency Regulations	
Traditional Purple-Pipe Recycled Water Total Water Demand = 10,000 afy	Indirect Potable Reuse Total Water Demand = 10,000 afy
<ul style="list-style-type: none"> • Agency Population = 40,000 • One agency pursues the traditional Purple-Pipe approach to recycle 3,000 acre feet of water • Potable irrigation demand is reduced by 3,000 acre feet • This agency's potable water production is reduced to 7,000 afy • Agency RGPCD = 156 • Conservation Standard = 28% 	<ul style="list-style-type: none"> • Agency Population = 40,000 • The other agency pursues the IPR approach to recycle 3,000 acre feet of water • Municipal and industrial water supply is supplemented with 3,000 acre-feet • Imported water use is reduced by 3,000 acre feet • Agency RGPCD = 223 • Conservation Standard = 36%

Climate Adjustment – Considered by many to be a key equity issue, MWDOC can support a Climate Adjustment so long as it does not result in offsets to other agencies.

Water Efficiency Performance Reporting – There are many strong points in favor of this approach, however, from an implement ability standpoint, the information needed is not broadly available to agencies at this time. The irrigated area data needed for this approach would require significant time and financial investment to be realized; perhaps an investment most appropriately from the state to allow the broadest implementation. This proposal is worthy of further consideration.

2. What additional data, if any, should the State Water Board be collecting through the Emergency Regulation and how would it be used?

In order to implement the Growth and Sustainable Supply Adjustments, the State Board should collect monthly connection and Indirect Potable Reuse production data for 2013 and for each reporting month. Only agencies requesting the adjustment will be required to provide the additional data. MWDOC absolutely supports these adjustments.

The State Board should also collect data on local water supply conditions, on a voluntary basis, to allow consideration of regional adjustments of conservation standards. The State Board should consider, for areas that have recovered from the drought, a reduction of or discontinued Emergency Regulations.

With a range of conservation standards from 8% to 36%, financial impacts to water agencies can be significant. It is the responsibility of water agencies to amend budgets and rates to manage these impacts. As a result, we do not agree with some stakeholders that detailed financial information should be provided to the State Board.

3. How should the State Board account for precipitation after January 2016 in its implementation of any extension of the Emergency Regulation?

The State Board should monitor precipitation throughout the state as we progress through the water year. Over the next few months, a robust stakeholder-based process should be used to provide a forum for open discussion and input on what the triggers for change might be. In April, after the majority of precipitation will have fallen and with input from the stakeholder-based process, the State Board should evaluate precipitation, snowpack, and reservoir levels. A comparison of April 2016 levels to average historic conditions should be considered to make appropriate adjustments to conservation standards. If water supply conditions improve, conservation standards should be relaxed or withdrawn. The State Board should also consider regional variations in water supplies and make adjustments to the conservation standards as appropriate.

Longer Term Urban Water Conservation Policy

The refinements to the extended Emergency Regulations presented above should not be considered for broader discussion on longer term or permanent urban water conservation policy. Notably, non-governmental organization comments have focused on permanent regulations without consensus that permanent regulations are need.

Looking to the future, any water use efficiency regulations considered by the state should balance water supply and demand management for a sustainable water future.

The appropriate state agency with proper legal authority should lead this process. Long term water use efficiency policy should be developed through an open and inclusive process that is not constrained by time. All stakeholders should have an opportunity to shape these regulations. Sufficient time should be invested in this process to result in a balanced and equitable framework that is broadly supported.

MWDOC appreciates this opportunity to help shape the extended Emergency Regulations. Thank you for considering our comments. We look forward to providing any clarification you may need. I can be reached at (714) 593-5026.

Sincerely,



Robert J. Hunter
General Manager