



April 26, 2000

Jerry Johns, Assistant Chief
Division of Water Rights
State Water Resources Control Board
901 "P" Street
Sacramento, CA 95814

OFFICE OF GENERAL COUNSEL

ROBERT C. HELWICK
GENERAL COUNSEL

NANCIE RYAN
ASSISTANT GENERAL COUNSEL

CRAIG S. SPENCER
CHIEF TRIAL ATTORNEY

XANTHE M. BERRY
JYLANA COLLINS
FRED S. ETHERIDGE
VERONICA Y. FAUNTLEROY
BENJAMIN T. REYES, II
PETER W. SLY

Re: Workshop on Guide to Water Transfers

Dear Mr. Johns:

The East Bay Municipal Utility District appreciates the opportunity to comment on the State Water Resources Control Board's Draft Guide to Water Transfers.

EBMUD believes that water transfers will continue to be an important tool for efficiently meeting critical water supply needs while managers grapple with growing and competing beneficial uses of scarce water resources. We wanted to highlight one section of the Draft Guide which appears to hinder transfers.

On pages 3-5 to 3-6, the Draft Guide states that water saved *prior to* water year 1980 "could have been lost through non-use" because section 1011 did not exist prior to the 1980 water year. This seems to suggest that water currently being conserved through conservation practices implemented prior to 1980 will not be considered by the SWRCB. EBMUD urges the SWRCB not to adopt such a narrow stance. Many water-saving measures that were put into practice during the 1976-77 drought are still producing substantial use reductions.

There is nothing in section 1011 that precludes the SWRCB from recognizing pre-1980 conserved water. Indeed, such a narrow construction would be inconsistent with California's long-standing state policy of encouraging water conservation and transfers. California's commitment to water conservation did not start in 1980. Thus, there is no reason the SWRCB should penalize water users who conserved water prior to 1980 by refusing to recognize such water. EBMUD urges the SWRCB to revise this section of the Guide such that the SWRCB can give full consideration to conserved water.

Very truly yours,

Fred S. Etheridge
Attorney

cc: Lena L. Tam