

Inland Empire Utilities Agency

A MUNICIPAL WATER DISTRICT

(7/15-16/14) Board Meeting- Item 10
Urban Water Drought Emergency Regulations
Deadline: 7/14/14 by 12:00 noon

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July 14, 2014

The Honorable Felicia Marcus
Chair, California State Water Resources Control Board
Box 100
Sacramento, CA 95812



Re: Proposed Emergency Water Conservation Regulations

Dear Chair Marcus:

On behalf of the Inland Empire Utilities Agency, I am writing to support the Emergency Water Conservation Regulations proposed by the State Water Resources Control Board (Board). I would like to offer brief comments on the emergency regulations and recommend additional measures that that Board may want to implement via emergency regulations in the coming months.

We recognize that the conservation measures called out in the Emergency Water Conservation Regulations constitute the most foundational drought response that water suppliers can and should be implementing in this extraordinary drought. We endorse the Board's approach of requiring all water suppliers and communities to take action to reduce outdoor water usage and calling for water supplier implementation of their existing water shortage contingency plans (or equivalent actions where these plans do not currently exist). The authorization of fines as an enforcement mechanism is an appropriate and, given the inadequate reduction to date in statewide water use, a much needed consequence to ensure that these conservation measures are quickly and fully implemented by all communities.

As a wholesale water agency, we will continue to work closely with our member agencies and the communities we serve to ensure that we are all doing as much as we can to reduce outdoor water usage within our service area. Our Agency plans to review all of our outdoor landscaping to ensure that we are demonstrating best practices at all of our facilities. In addition, we are looking at ways to increase awareness about the drought's severity and to make more funding available to our member agencies for water conservation measures.

Finally, we believe that the monthly reporting required by the proposed regulations is very important. This will help ensure that the Board has solid information about how water is being used which, in turn, will help you and your staff to make better decisions in the coming months and years. Since the Board will specify the data to be reported by water suppliers, we urge that you consider the addition of the following: (1) in order to better determine what losses are in the system, report on potable retail sales in addition to

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General Manager

potable water production and (2) report on recycled water usage. The latter is important because recycled water helps to offset potable water use and is a growing source of regional supplies.

Since my testimony to your Board on June 17, 2014, I have had the opportunity to reflect further on your questions about the additional drought measures that this Board should adopt. My recommendations, consistent with my letter of May 2, 2014 to you, are the following:

(1) Identify the standards that can be applied to ensure that everyone is “reasonable” in their use of water.

We believe that setting a standard based on what constitutes a “reasonable” amount of water for the type of beneficial use is more appropriate and equitable than using an arbitrary standard such as requiring a percentage reduction in the use of water. Further, we believe that water agencies should be allowed to figure out how they will best meet that standard, and that this approach will be more successful in achieving real permanent water efficiencies than the use of an arbitrary percentage reduction.

One successful example of this approach is the model landscape ordinance adopted by the Legislature in 2008. The model ordinance was developed through a stakeholder task force led by the California Department of Water Resources. It set a standard for appropriate outdoor water use (.70 ETO in new landscapes and .80 ETO in existing landscapes) that was based upon water efficiency best management practices. However, it did not dictate how sites would be landscaped, leaving the selection of plant material, irrigation technologies, etc. to the property owner. Thus, the compliance standard defines what is reasonable, and leaves the choice of how the standard is to be met to the implementers.

The Board should use this approach to define what is a reasonable amount of water use in any given region by agency service area. As a first step, the Board could combine the model landscape ordinance standard (Model Landscape Ordinance of 2006, AB 1881) with an indoor water usage standard of 55 gallons per person per day (Water Conservation Act of 2009, SB 7x-7). A task force comprised of water suppliers and stakeholders could be assembled to assess other types of water uses (industrial, commercial) and regional considerations. The task force would then make recommendations to the Board on what should be included in an adopted “reasonable” water use standard. Each supplier could then decide how to achieve that level of efficiency and meet the requirement of the state.

Obviously there are challenges to overcome in developing an appropriate standard (or combined standards based on types of beneficial uses). I believe that local agencies and stakeholders could work through those. I also recognize that the process would be uncomfortable and at times difficult. However, without objective standards the state is left to innuendo and supposition about what is a “reasonable” level of water use for a

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particular beneficial use or location. If the drought continues, the conflicts over how the remaining water supplies should be allocated will only intensify. Developing standards now, even if they need to be refined as we go forward, is much better than waiting and not having any standards at all.

(2) Establish standards for the appropriate use of turf (lawns).

As the Board's letter points out, in the urban sector, the majority of water usage goes to outdoor landscaping. And the vast majority of this urban irrigation water goes to ornamental turf. It may be time for the Board to establish a clear and coherent vision of what constitutes an appropriate use of turf, and to start delineating between "functional" and "non-functional" or "ornamental" lawns. If this drought continues, ornamental turf may be something that the state cannot afford to sustain.

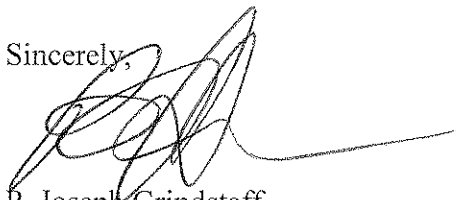
(3) Promote adoption by water suppliers of sustainable water rate structures that encourage conservation.

It is clear that many water agencies are financially vulnerable to events like droughts and significant water conservation initiatives that result in reduced potable water sales. Rate structures that cannot deliver revenue stability at the same time that they encourage water efficiency undercut efforts to ensure reasonable use of the state's water supplies.

The Board should adopt principles that encourage water suppliers to update their water rate structures to systems that are sustainable and ensure revenue stability while increasing levels of water efficiency and capacity to respond to droughts. There are many kinds of rate structures that can achieve this goal. Allocation or budget based rate structures are very effective, but other types of rate structures work as well. The board should require that water suppliers meet standards for sustainable water rate structures, but allow suppliers to determine the type of rate structure that will best meet their needs.

The SWRCB is to be commended for its' leadership during this extraordinary drought. IEUA remains committed to assisting the Board in working on additional steps. Attached, please find our May 2, 2014 letter that contains additional recommendations for actions that the Board should take to reduce water usage and to make water conservation and water efficiency a way of life in the state.

Sincerely,

A handwritten signature in black ink, appearing to read 'P. Joseph Grindstaff', with a long horizontal line extending to the right.

P. Joseph Grindstaff
General Manager

The Honorable Felicia Marcus
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Cc: The Honorable Fran Spivy Weber, SWRCB Vice Chair
The Honorable Tam M. Doduc, SWRCB Board Member
The Honorable Steven More, SWRCB Board Member
The Honorable Dorene D'Adamo, SWRCB

Tom Howard, SWRCB Executive Director
Michael Lauffer, SWRCB Chief Counsel

Martha Guzman-Aceves, Office of the Governor
The Honorable John Laird, Secretary California Natural Resources
Mark Cowin, Director, Department of Water Resources
Jessica Pearson, Executive Officer, Delta Stewardship Council

The Honorable Darrell Steinberg, President Pro Tem, California Senate
The Honorable John A. Perez, Speaker, California Assembly
The Honorable Fran Pavley, California Senate
The Honorable Anthony Rendon, California Assembly



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May 2, 2014

The Honorable Felicia Marcus
Chair, State Water Resources Control Board
Box 100
Sacramento, CA 95812-0100

Dear Chair Marcus:

I am writing on behalf of the Inland Empire Utilities Agency to urge the State Water Resources Control Board to use its Emergency Drought Authority to immediately adopt clear expectations for reasonable water use and standards for what constitutes water waste.

Our request is consistent with Governor Brown's April 25 Executive Order to "Redouble Drought Actions" that includes direction to the State Water Resources Control Board to "adopt and implement emergency regulations pursuant to Water Code section 1058.5, as it deems necessary to prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of water, to promote water recycling or water conservation, and to require curtailment of diversions when water is not available under the diverter's priority of right."

This crucial action is needed now to ensure that everyone in California is doing their part to reduce water demands in this record-breaking drought. It is also essential to ensuring that water efficiency and conservation become "a way of life in California" and not just another temporary response to the State's water problems.

As Governor Brown has repeatedly stated, California's water demands now exceed our available supplies. The State must continuously work to reduce these demands by becoming more efficient in how we use water.

Clearly, significant progress to improve water conservation and efficiency in both the urban and agricultural sectors has been made in the past two decades in California. But as a water supplier who is a state leader in making these improvements, we know that so much more could, should, and ultimately must be done to better manage California's water supplies.

One example of a needed improvement is the not-so-stellar record for urban and agricultural water supplier compliance with existing water conservation and efficiency laws. Recent drought testimony, provided to the Board, pointed out that most but not all urban water suppliers prepare Urban Water Management Plans (which include drought

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response elements) even though these Plans have been legally required for more than 30 years. More significantly, only 38% of the agricultural water suppliers who are required by the Water Conservation Act of 2009 (SB7x-7) to prepare Agricultural Water Management Plans have not done so, even though these plans, with their drought response and critical water efficiency practice elements, are more than one year past due.

California's only immediate enforcement mechanism is to make urban and agricultural water suppliers ineligible for State grants and loans if they do not submit complete plans. But Department of Water Resources testimony provided to the Delta Stewardship Council last year underscored the limited nature of the State's compliance reviews. An independent assessment recently identified 4 agricultural water suppliers that had received State grant funding even though their water management plans were incomplete.

This is nonsense. If saving water and improved water management are to become a way of life in California, then existing water conservation and efficiency laws need to be meaningfully enforced.

For this reason, we think it essential that the Board act now to establish baseline standards for what constitutes waste and reasonable use, putting specific requirements behind the language of the California Constitution Article X, Section 2. Using its Emergency Drought Authority as authorized by the Governor, the Board should consider the following:

1. Specify standards for reasonable urban and agricultural water use consistent with existing law. Indoor water use should be set at 55 gallons per capita daily based on the Water Conservation Act of 2009 (SB7x-7). Outdoor irrigation should achieve a standard of .80 (existing landscapes) and .70 (new landscapes) for the Maximum Applicable Water Allowable based on the Model Landscaping Ordinance legislation (AB 1881, 2006).
2. Prohibit water waste and unreasonable use at all times. Many local ordinances ban or enforce a ban on water waste only during drought or emergency conditions.
3. Specify that urban and agricultural water suppliers are expected to comply with all applicable water efficiency and conservation laws, regulations and policies. These include long standing requirements for preparation and submittal of Urban Water Management Plans (AB 797, 1983, and subsequent updates), installation of water meters (AB 2572, 2004), adoption of model landscape ordinances (AB 1881, 2006), implementation of demand management measures (AB 1420, 2007), installation of indoor water efficient plumbing (SB 407, 2009), preparation and submittal of Agricultural Water Management Plans (SBx7-7, 2009), achievement of per capita water use reduction targets of 20% by 2020 (SBx7-7, 2009), and implementation of California Statewide Groundwater Elevation Monitoring program (SBx7-6, 2009).

4. Require all applicants for water rights actions, including Temporary Urgency Change and water transfer permits, to submit information documenting the status of their compliance, and that of the suppliers who will receive the water, with all applicable water efficiency and conservation laws, regulations, and policies.
5. Include in any water rights action a Board finding on the reasonableness of water usage based upon the Board's assessment of the conditions and the degree of compliance by the applicant with the waste and unreasonable use standards, including all applicable water efficiency and conservation laws, regulations, and policies.
6. Include in any water rights action specific requirements for remedial measures to comply with waste and unreasonable water use standards, including all applicable water efficiency and conservation laws, regulations, and policies and the time frames by which these actions must occur.

The above measures could be implemented immediately during this drought. Once the drought is over, the Board should adopt an expanded Waste and Unreasonable Use Policy with additional water efficiency and conservation measures. These may include provisions for urban and agricultural water suppliers to adopt revised rate structures that promote water efficiency while maintaining a stable rate base. The Board should also seek ways to expedite installation water meters, implementation of groundwater monitoring and management, and expansion leak detection programs as core reasonable water use measures.

We are confident that all water suppliers will promptly implement required water efficiency and conservation measures when water managers and agency boards clearly understand the State Board's expectations for what constitutes reasonable water use and the Board's commitment to compel compliance if it must. Universal implementation of these measures will make a tremendous difference for California. Look at the agricultural and urban water suppliers who have already complied with the state's water efficiency and conservation laws. They are among the state's best prepared and most resilient communities in dealing with the current drought.

In summary, the culture of the State's water users must change if water efficiency and conservation are to be embedded in California's future. This change will require clear, enforceable standards for what constitutes waste and unreasonable use.

Respectfully, we request that the State Water Resources Control Board to use its Emergency Drought Authority, as authorized by Governor Brown, to immediately adopt water and unreasonable use standards. By doing so, you will help ensure that everyone is doing their part to reduce water demand and efficiently manage California's water supplies, now and in the future.

Ms. Felicia Marcus

May 2, 2014

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Sincerely,

INLAND EMPIRE UTILITIES AGENCY



P. Joseph Grindstaff

General Manager

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The Honorable Tam M. Doduc, SWRCB Board Member
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