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January 28, 2016

Ms. Felicia Marcus, Chair  
State Water Resources Control Board

Dear Ms. Marcus,

Desert Water Agency (DWA) would like to thank the State Water Resources Control Board for the opportunity to submit comments on the preliminary framework of the Extended Emergency Regulation for Urban Water Conservation (emergency regulation) and again before your consider adoption of the revised emergency regulation.

We applaud the Board's willingness to tailor the regulation to address local factors by allowing agencies a credit of up to eight percent. It is clear that the Board has spent a great amount of time trying to amend the emergency regulation to address the needs of the state's many diverse water agencies. However, the proposed framework disproportionately caters to the needs of some agencies more than others. We remain hopeful that the Board will make some minor adjustments to address the needs of our community. We ask the Board to reconsider the following elements in the draft regulation before making a decision on February 2:

- Climate adjustment four percent cap
- No reassessment scheduled in April for snowpack
- No credit for recycled water or groundwater management
- Growth adjustment complexity

#### CLIMATE ADJUSTMENT CAP

For the agencies in the highest ET zone in the state, a four percent adjustment is not sufficient to address a more than 27 percent deviation from the statewide average ET. Additionally, it is not equitable to cap only the climate adjustment at four percent with the overall cap at eight percent. Agencies may receive an eight percent adjustment in some of the other adjustment categories, and climate is perhaps the biggest discrepancy impacting conservation.

Under the methodology presented by SWRCB staff, an agency with a five percent deviation from the statewide ET would receive a two percent credit, whereas an agency with more than five times that deviation would receive a four percent credit. A two percent difference cannot account for the dramatic climate impact that our region sees compared to places in Northern and Central California, like Fresno and Stockton. **This metric unfairly disadvantages communities with the hottest, driest climates.** It also groups regions together, not truly reflecting the circumstances they experience. Some regions will benefit from this, but those with the most need are hindered. Our customers live in one of the hottest places in the world – living conditions most Californians do not understand. People, animals, plants – even those that are drought tolerant – simply need more water in our region.



Using the climate adjustment methodology submitted by the Association of California Water Agencies to the SWRCB prior to the December 7 workshop, DWA would see an adjustment from the Agency's current 36 percent conservation standard to an approximate 27 percent, rather than the 32 percent that results from the SWRCB staff methodology. Reducing an agency's conservation standard by the same proportion as its deviation from the statewide temperature is reasonable and easy to explain. It is much simpler and fairer than the SWRCB staff-proposed methodology.

Treating each ET zone differently, rather than lumping agencies with different deviations together, would more accurately reflect the water needs in those communities. We believe the adjustment as proposed by stakeholders is reasonable and intelligible.

#### **REASSESSMENT OF MANDATORY TARGETS IN APRIL**

Desert Water Agency would like the State Board to consider reevaluating the mandatory conservation targets based on the snowpack survey findings in April. This is extremely important to the credibility of the State and of agencies in asking their customers to save.

**If there is a wet winter, the targets should be eased or removed.** Part of the reason we've had such remarkable success in garnering statewide savings is that people see the need for it. We want to ensure that emergency water restrictions remain effective by using them only when truly needed.

The adjusted conservation mandate percent could be decreased by the amount over average snowpack on April 1, 2016.

Scenario: Agency with 36% receives 4% adjustment and there is 105% of average snowpack.

**32% adj. mandate \* (100% avg. snowpack - 5% amount over 100% snowpack) = 30.4% mandate Apr - Oct**

Committing to reassess the regulation based on relevant data will give agencies and their customers certainty that the Board is looking after emergency interests.

#### **WATER RECYCLING & GROUNDWATER MANAGEMENT**

Staff should reconsider giving credit to agencies with groundwater sustainability and recycled water production. DWA customers have invested in these efforts for years as a way to safeguard our community from the effects of drought conditions. Our groundwater basin is sustainable, and we are not facing water shortages.

DWA and our customers have made large investments in the State Water Project and our groundwater replenishment facilities to protect our region against the impacts of drought. These investments – which required smart, long-term planning and large portions of our Agency's resources – are now being tossed aside as this state mandate fails to consider the benefits of a diverse supply portfolio when preparing for drought. Because DWA is not suffering from water shortages, the State Water Board's action to exclude groundwater recharge from the drought-resilient supply credit is arbitrary – no water is saved for the benefit of fisheries or other legal users of water. Although DWA is not receiving full SWP supplies due to the drought (and imposed water quality and fishery requirements), the groundwater basin has been managed to accommodate drought scenarios.

**The drought-resilient supply credit unfairly disadvantages non-coastal communities for which desalination of seawater use is not an option.**

It is also unclear as to why the SWRCB treats groundwater storage differently than surface water storage.



A simple flat percentage credit could be given to agencies that get a vast majority of their supply from medium- or low-priority basins. The recycled water credit could be simply calculated as laid out by the panel at the December 7 workshop.

### GROWTH METHODOLOGY

The methodology provided by SWRCB staff is very complex and requires information that many agencies, like DWA, do not readily have available. Additionally, even those agencies that have experienced significant growth receive a negligible credit under this methodology. This adjustment is not easy to calculate, understand or explain.

DWA supports the growth adjustment being made with an increase of the baseline year to account for all new connections. This ensures that communities that have experienced growth, which is beyond their control, are not unfairly burdened.

The simple methodology presented by the working group would allow the SWRCB staff and agencies a straightforward way to account for growth.

### IN CLOSING

Supporting our customers in achieving conservation gains has been a top priority for DWA. We have spent an incredible amount of time, energy and resources to yield unparalleled conservation. We are proud that the water we've saved is not only above the previous 25 percent statewide mandate, but has also made significant contributions to statewide savings above the Governor's mandate.

Increasing conservation outreach has cost the Agency approximately \$145,000 and enforcement costs are projected to be in excess of \$215,000. This is all at a time when our Agency will see \$8.2 million less in revenue. Our Agency also needs to dedicate resources to its aging infrastructure and ensure that water quality meets State standards.

We share your goal of protecting California water resources. DWA would like to work with the State Board to continue achieving conservation gains during the extension period, but our customers need a fair regulatory environment— one that balances the need to reduce water consumption with the needs of our community and our economy.

DWA appreciates the State Board's willingness to address the hardships created by the existing framework. Our hope is that the SWRCB implements meaningful changes that will be fair and easy to explain to our customers.

We continue to tell our customers that they must do more to conserve, especially in the face of extreme heat. At the same time, they're criticized for falling short despite the fact that our community's conservation achievements are above the statewide average – it has become a hard message to sell. At this point, we are hearing from some of our customers that they are fatigued and see little use in trying to meet a goal that seems impossible to reach. We believe that more of our customers would be willing to step up to conserve even more if they felt that the mandated conservation percentage was fair and attainable for our community.

Thank you,



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