



City of Sierra Madre

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January 28, 2016

RE: Comments on Proposed Emergency Rulemaking Extending Drought
Conservation Regulations

VIA EMAIL: commentletters@waterboards.ca.gov
Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

To the Members of the State Water Resources Control Board:

The City of Sierra Madre ("City") submits the following comments on the State Water Resources Control Board's ("SWRCB") Proposed Emergency Rulemaking, dated January 22, 2016, extending and revising existing emergency regulations for urban water conservation. The City supports the SWRCB for providing several public comment opportunities as it considers whether and how to extend the existing water conservation regulations intended to respond to the ongoing drought.

The SWRCB's data indicates that the state, as a whole, has achieved a cumulative 26.3% water savings from June to November 2015, compared to the same period in 2013. At this level, the state has collectively met its conservation target over these six months, and is on track to continue to meet the conservation target overall. Given this fact, the SWRCB is right to respond positively to the stakeholder proposals to modify the existing conservation regulations by reducing individual agency's conservation targets when warranted in a variety of cases.

I. SWRCB Must Revise Regulations to Rationally Reflect Reality of Agencies in Areas with Higher than Average Evapotranspiration Rates

by Allowing All Agencies in Hotter Areas to Proportionally Reduce Conservation Standards.

The SWRCB's proposed revised emergency regulations reduce conservation targets for agencies with higher than average evapotranspiration rates by up to 4%, reflecting the state's significant climatic variation. The City commends the Board's recognition that hotter, inland areas have higher heat indexes and evapotranspiration rates and thus require additional water to keep critical flora, including urban trees, healthy relative to cooler, coastal areas. Even with reductions in unnecessary landscape irrigation and limiting outdoor irrigation to critical flora, areas with higher evapotranspiration rates will still need more water for the same amount and type of landscaping as cooler, coastal areas. The proposed emergency regulations rightly recognize this.

However, the City is concerned that the proposed emergency regulations lack a rational basis to limit reduction of conservation standards to only those agencies with a 5% or higher level of evapotranspiration over the statewide average. All outdoor water users in areas with a higher than statewide average evapotranspiration rate must use more water than cooler, wetter areas, yet the Board's proposal only reduces conservation standards for agencies with at least a 5% upward deviation from the statewide average. This lacks a rational basis. The Board is right to recognize that the hotter, drier areas of the state need different conservation standards than the cooler, wetter areas. The Board must fully implement this recognition in its emergency regulations.

The City therefore recommends that the Board revised the proposed new Article 22.5, Section 865, subsection (f) to read as follows, with changes underlined:

(f) In consideration of the differences in climate affecting different parts of the state, growth experienced by urban areas and significant investments that have been made by some suppliers towards creating new, local, drought-resilient sources of potable water supply, an urban water supplier's conservation standard identified in subdivision (c) shall be reduced by an amount, not to exceed ten (10) percentage points total, as follows:

(1) For an urban water supplier whose service area evapotranspiration (ET_o) for the months of July through September

exceeds the statewide average evapotranspiration for the same months, the supplier's conservation standard identified in subdivision (c) shall be reduced by the same percentage basis as the supplier's service area evapotranspiration exceeds the statewide average, up to a maximum of ten (10) percent.

(A) Statewide average evapotranspiration is calculated as the arithmetic mean of all urban water suppliers' service area default evapotranspiration values for the months of July through September. Default service area evapotranspiration will be based on the California Irrigation Management System (CIMIS) ETo Zones Map zone for which the supplier's service area has the greatest area of overlap. In lieu of applying its default service area evapotranspiration, a supplier may use specific data from CIMIS stations within its service area that have at least a five-year continuous period of record to identify a more specifically-applicable evapotranspiration for its service area. To qualify for the in-lieu climate adjustment the supplier shall submit the following data to the Board by March 15, 2016 for each station: CIMIS station ID; station location; and monthly evapotranspiration, in inches per month, for July, August, and September for the five-year continuous period of record.

This proposed modification will allow all agencies with higher than statewide average evapotranspiration rates to have reduced conservation standards, with a ten percent cap in recognition of the fact that the drought is severe and ongoing. Limiting the potential reduction in conservation standards to only 4%, and only for agencies with at least a 5% higher than average evapotranspiration level, when the state has, as a whole, met the conservation standard and when some agencies have evapotranspiration rates much higher than the statewide average fails to accurately reflect the greater difficulty agencies with higher evapotranspiration rates face in conserving water. The City recommends that the SWRCB adopt the proposed evapotranspiration-rate based conservation standard reduction, but adjusted as stated above to reflect the difficult reality that the significant regional variation in the amount of water

required for the same type of landscaping creates for agencies in these areas.

II. SWRCB Should Consider Water Conservation Efforts Before Establishment of the 2013 Baseline in Evaluating Any Enforcement Actions

As cities and water agencies are enforcing the State conservation requirements, the most common complaint from consumers continues to be that water conservation efforts before the 2013 baseline have been detrimental to both setting and meeting the customers' individual targets. Residents and businesses that made significant investments in water conservation and that have already substantially changed their water use behavior, before the state's 2013 baseline, should be given explicit credit for those past conservation efforts. This disconnect is particularly troubling for those residents and businesses who are subject to the same strict conservation standard as neighbors who failed to previously conserve, yet are having difficulty meeting that standard as they have already conserved significant amounts of water.

The City of Sierra Madre has included an appeal process to the conservation targets that have been established in order to take anomalies into consideration. The State should establish a similar appeal process that would allow a city or agency to quantifiably demonstrate such pre-2013 conservation, then have their conservation targets proportionally adjusted to reflect the conservation already achieved. The City of Sierra Madre has reduced the production of potable water by 43% over 1998, making the current requirement for a 32% reduction over two years much less feasible.

Conclusion

For the foregoing reasons, the City requests the Board revise its existing regulations as follows:

- SWRCB must revise proposed emergency regulations adjusting conservation targets to reflect higher than average evapotranspiration rates to reduce conservation targets by the percentage that each agency's evapotranspiration exceeds the statewide average, up to a maximum reduction of 10%;
- Establish a process to allow a city to quantifiably demonstrate pre-2013 conservation, then proportionally adjust conservation targets to reflect conservation already achieved.

The City seeks these amendments to ensure that the revised emergency regulations are reasonable, feasible, reflect the expected significantly increased winter precipitation, and will continue to accomplish the Governor's stated goal of a 25% statewide water use reduction. After several months of implementing the regulations and a significant previous history of conservation, the City has achieved a 48% conservation rate relative to 1998 water consumption levels. The City will continue to work together with its residents and businesses to improve its conservation and urges the SWRCB to revise the conservation standards as stated above to ensure that the realities facing Sierra Madre and many other similarly situated cities are taken into account in the revised regulations.

Sincerely,



City Manager Elaine Aguilar
City of Sierra Madre

cc: Sierra Madre City Council
Teresa L. Highsmith, City Attorney