



County of San Diego

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January 6, 2016

Kathy Frevert
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Dear Ms. Frevert:

Re: Comments on Proposed Regulatory Framework

The County of San Diego ("County") appreciates this opportunity to comment on the framework proposed by the State Water Resources Control Board ("State Water Board") for the extension of the Drought Emergency Water Conservation Regulations, 23 CCR § 863 et seq. The framework begins to address many of the concerns the County had with a statewide regulatory approach that failed to adequately address local conditions. If these regulations are to be extended, it is critical that conservation standards be adjusted to account for regional investments in drought resilient supply, population growth, local climatic conditions and other factors that vary throughout the State. The County is encouraged by the State Water Board's increased focus on local conditions.

The County recognizes that the State Water Board is in the initial stages of developing revisions to the regulations. In keeping with the conceptual nature of the proposal, the County will at this point focus its comments on more general matters. The County would draw the State Water Board's attention to the following:

- Don't Cap Certain Individual or Total Credits and Adjustments: The State Water Board is recommending several credits and adjustments, each at a maximum of 4%, and has also proposed that all credits and adjustments be capped at 4% of each water purveyor's conservation standard. The County does not believe that a 4% cap is reasonable for the drought resilient supply credit or as a total cap on all credits and adjustments.

Under the State Water Board's recommended approach, a water purveyor would only be able to receive a 4% credit even if substantially more than 4% of the purveyor's potable water is obtained from drought resilient sources of supply. This unfairly penalizes regions like San Diego County that have substantially invested in drought resilient water supply. It is anticipated that the recently completed Carlsbad

Desalinization Plant will supply between 8-10% of region's projected water demand. Additional regional water demand may be met by potable reuse or other drought resilient sources of supply in the near future. Failure to fairly credit these sources of supply risks unnecessarily constraining economic growth and development in regions that have adequately planned for the impacts of drought.

In addition to being eligible for a credit for developing drought resilient sources of supply, San Diego County will be eligible for a credit related to population growth and an adjustment because of warmer climate. In regions like San Diego County with significant drought resilient sources of supply, the proposed 4% cap effectively nullifies these additional credits and adjustments. Under the State Water Board's approach, a region that has not developed any drought resilient sources of supply could receive the same total credit as San Diego County. This is simply unfair.

The County would propose the credit for drought resilient sources of supply be separately accounted for from other credits and adjustments. We further request that the total credit allowance not be capped and that if the credit for drought resilient supply is to be capped that it be fairly capped based on an assessment of the resilience of the source of supply. A source of supply like desalination that is not impacted by drought should be uncapped, but other sources of supply that may to some extent be impacted by drought could reasonably be capped.

- Credit for Permanent Reductions in Potable Water Use: The County has proposed a credit system be developed that incentivizes permanent investments in water conservation by local government. Under the State Water Board's approach, the burden of meeting the State's water conservation goals falls entirely on water purveyors. Unless a local government also serves as a water purveyor, the State Water Board's regulations provide no direct opportunity for local government to assist the State in meeting water conservation targets. The County continues to believe that developing a voluntary, alternative compliance model that would allow local governments like the County of San Diego to separately account for their facilities is a good way to meet the State's water conservation objectives. The County renews its request that a credit system be developed whereby local governments could elect to independently meet the State's water conservation targets for their facilities by being able to apply credits earned for water conservation at certain facilities to others where conservation may not be possible.
- Allow for Adjustment of Conservation Standards Before October 31, 2016: While Executive Order B-36-15 issued by the Governor on November 13, 2015 directs the State Water Board to extend the emergency regulations until October 31, 2016, it doesn't mandate that the regulations remain unchanged throughout this period. The County would suggest that the State Water Board include a provision in the regulations allowing for future adjustment or reduction of conservation standards based on precipitation totals. Further, we suggest scheduling a re-evaluation of requirements in the May-June 2016 timeframe. This would allow for the regulations to be adjusted to account for the anticipated snowpack and rainfall that is forecasted to come from the current El Niño weather pattern.

- Acknowledge Investments in Water Conservation Prior to 2013-2014: The County has required water conservation for public and private projects in the region since at least 1986. The State's emergency regulations do not account for these long-standing conservation efforts. The County would suggest that the State Water Board allow for the adjustment of the 2013-2014 base period used to measure the attainment of water conservation goals to account for previous water conservation efforts. The current approach penalizes regions that have been conserving water for years.
- Provide Some Explanation of Assumptions Used to Calculate Adjustments to Conservation Standards: There are a number of adjustment factors proposed by the State Water Board that have not been explained. As an example, adjustments to water conservation standards to account for regional growth assume only 3 people per household and a 270 day year. There is no explanation as to how these factors were developed. The County would request that when factors like these are proposed the State Water Board provide some explanation as to how they were developed and why they should be applied statewide. Without this information, it's difficult to assess if these factors are fair indicators of water use in the San Diego region.

The County very much appreciates being provided with an opportunity to provide these comments. If you have any questions or would like additional information, please do not hesitate to contact me directly at (619) 531-4940 or April Heinze, Acting General Manager, Community Service Group at (610) 531-4837.

Sincerely,



DONALD F. STEUER

Assistant Chief Administrative Officer/Chief Operating Officer

cc: Helen Robbins-Meyer, Chief Administrative Officer
April Heinze, Acting General Manager, Community Services Group