



December 21, 2017

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Subject: Comment Letter – Prohibiting Wasteful Water Use Practices

The Municipal Water District of Orange County appreciates the opportunity to provide comments to the State Water Resources Control Board (State Water Board) on the proposed regulation to permanently prohibit certain wasteful water uses. We support several of the proposed regulations and have concerns with others.

#### Areas of Support

Retail water agencies throughout Orange County have had long standing water waste prohibitions that include many of the prohibitions proposed during the November 21, 2017 Public Workshop. Those include:

- The application of water to outdoor landscapes in a manner that causes runoff
- The use of a hose to wash an automobile except where the hose is equipped with a shut-off nozzle
- The application of potable water to hardscapes
- The use of potable water in non-recirculating ornamental fountains or other decorative water features

**Proposed Question:** *Are the hospitality prohibitions still necessary – or are they more effective during a drought, when used as both a conservation and messaging tool?*

MWD OC supports the hospitality prohibitions to enhance and maintain a water efficiency ethic throughout California. Most hotels and motels already provide guests the option of re-using towels and linens as part of their ongoing “green” business practices regardless of drought conditions. These requirements will not harm restaurants, hotels and motels, and will help to maintain awareness of the need to use water wisely.

As stated in the public presentation to the State Water Board, the majority of these practices are already prohibited by water providers across the state and have become part of daily life for Californians. Making these regulations permanent will continue to promote water conservation and prevent the waste and unreasonable use of water.

## Areas of Concern

The following components of the proposed regulation are of particular concern to us:

1. The application of water to irrigate turf and ornamental landscapes during/within 48 hours after measurable rainfall of at least one-tenth of one inch of rainfall
2. Prohibiting the irrigation of turf on public street medians and verges unless the turf serves a community or neighborhood function

### Concern Area 1 - Measureable Rainfall

We understand that providing a definition of what is “measurable” rainfall is intended to be helpful for water agencies as they implement this provision. However, many water agencies, including MWDOC, have concerns about the variability of rainfall within a given service area. Large service areas will experience significant differences in rainfall; meaning some areas within an agency’s boundaries will be subject to the ordinance, while others not. This also creates a messaging challenge with customers.

Additionally, a tenth of an inch of rain may not be sufficient to meet irrigation needs of certain landscapes within a 48 hour period. A number of factors can influence the locally appropriate amount of rainfall resulting in unneeded irrigation, such as climate, soil texture and structure, and root zone depth. **We request that the reference of “at least one-tenth” of one inch be removed and that agencies be granted the flexibility to make a local determination of what is measurable rainfall.**

### Concern Area 2 – Irrigation of Turf on Public Street Medians

**Proposed Question:** *Are there other ways the proposed regulation to restrict “the irrigation of turf on public street medians” could be phrased so that it would minimize the irrigation of turf-only medians: avoid unintended consequences; allow for well-planned landscape transformations, and encourage the irrigation of turf that provides social, recreational and/or environmental benefits? Is turf in these areas a good candidate for recycled water and should the regulations be limited to potable water?*

The prohibition of irrigation of turf on public street medians and verges, unless the turf serves a community or neighborhood function, is superfluous, as these new and rehabilitated medians and verges are subject to the Water Conservation in the Landscape Act which requires cities and counties to adopt local ordinances that are “at least as effective as” the State’s Model Water Efficient Landscape Ordinance. According to the ordinance, these areas are considered commercial landscape and assigned a Maximum Applied Water Allowance (MAWA) of 0.45 of the local evapotranspiration. Even with the most efficient irrigation technologies, landscapes assigned a MAWA of 0.45 could not include turf grass and be in compliance with the ordinance.

Many water agencies have invested in the development of recycled water for irrigation of street medians and parkways. These systems were sized based on the anticipated demand for irrigation within the reach of the recycled water distribution system.

Recognizing this investment along with the concept of “fit for purpose” the State Water Board allowed continued irrigation of turf based street medians with recycled water during the recent drought. In support of this acknowledgement, water agencies in southern California implemented a Recycled Water Retrofit Program that provided incentives to cities to convert street medians irrigated with potable water to recycled water. More than 1,500 acres have been converted in Orange County through incentives of nearly \$3 million. The proposed regulation prohibiting the irrigation of turf in street medians with recycled water could result in stranded assets not just for the development of this sustainable supply options but also for recent investments to convert systems from potable to recycled water.

If the proposed regulation is approved, cities will incur significant costs by re-landscaping medians and parkways. This unfunded mandate will force cities and counties to cut services or programs in other areas in order to comply. The cost for cities and counties to remove turf in medians and verges represents a significant financial burden that does not appear to be considered in the Economic and Fiscal Impacts of the Proposed Regulation to Permanently Prohibit Certain Wasteful Water Use Practices dated November 1, 2017. The cost to retrofit these landscapes should be considered. According to the Orange County Chapter of the California Landscape Contractors Association, the cost to convert a landscaped area to conform to this regulation is a minimum of \$6 to \$7 per square foot. This translates into millions of dollars. If cities and counties are required to re-landscape medians and verges, the State Board should allow time for cities and counties to budget, design and construct these landscapes.

Cities and Counties currently have sufficient incentive to implement the landscape ordinance. Per Executive Order B-29-15 action No. 11, *“The Department shall update the State Model Water Efficient Landscape Ordinance through expedited regulation. This updated Ordinance shall increase water efficiency standards for new and existing landscapes through more efficient irrigation systems, greywater usage, onsite storm water capture, and by limiting the portion of landscapes that can be covered in turf. It will also require reporting on the implementation and enforcement of local ordinances, with required reports due by December 31, 2015. The Department shall provide information on local compliance to the Water Board, which shall consider adopting regulations or taking appropriate enforcement actions to promote compliance. The Department shall provide technical assistance and give priority in grant funding to public agencies for actions necessary to comply with local ordinances.”*

**For these reasons, we ask the State Water Board to:**

- 1. Withdraw the proposed regulation prohibiting irrigation of turf on existing public street medians and verges and rely on the requirements of the Water Efficient Landscape Ordinance for new and rehabilitated medians and verges, and**
- 2. Exempt medians and verges irrigated with recycled water from the proposed regulation. Not exempting recycled water would penalize agencies who proactively invested in recycled water systems.**

Again, we appreciate the opportunity to provide comments and feedback regarding the proposed regulation to permanently prohibit certain wasteful water uses. Should you have any questions or need additional information regarding these comments, please contact Joe Berg at (714) 593-5008.

Sincerely,

A handwritten signature in blue ink, appearing to read 'R. Hunter', with a long horizontal flourish extending to the right.

Robert J. Hunter  
General Manager

CC: Member Agency Representatives and General Managers