



March 11, 2015

Felicia Marcus, Chair
State Water Resources Control Board
C/o Clerk to the Board
P.O. Box 100
Sacramento, CA 95812-0100
Via email: commentletters@waterboards.ca.gov

Subject: Proposed Emergency Regulations Section 865

Dear Ms. Marcus:

Commenter

The California Alliance for Golf (CAG) is incorporated under the Laws of the State of California for the purpose of congealing the state's normative golf organizations/associations/businesses into one organization that can credibly purport to speak on behalf of the California golf industry in the public arena. Among the organizations comprising the Alliance are: Northern California Golf Association, Southern California Golf Association, Northern California PGA Section, Southern California PGA Section, California Golf Course Owners Association, California Golf Course Superintendents Association, Golden State Chapter Club Managers Association of America, and the Southern California Municipal Golf Association. The comments that follow are submitted on their behalf

Specific Subject Matter of Comments

The summary of the Proposed Section reads in part as follows with respect to a mandate to adopt two-day per week restrictions on outdoor irrigation:

"Proposed section 865 directs urban water suppliers to implement the stage of their water shortage contingency plan that imposes mandatory restrictions on the number of days that outdoor irrigation is allowed, requires those urban water suppliers without adequate drought shortage contingency plans to adopt them or other measures to promote conservation within thirty days, and report monthly water production information to the State Water Board. This section also requires urban water suppliers that don't already impose a limit on the number of days that outdoor watering is allowed to limit outdoor irrigation of turf and ornamental landscapes to no more than two days per week."

The actual language of the "Proposed Section" reads in part as follows:

"(b)(1) To promote water conservation, each urban water supplier shall implement all requirements and actions of the stage of its water shortage contingency plan that includes mandatory restrictions on the number of days that outdoor irrigation of ornamental landscapes or turf with potable water is allowed. Urban water suppliers with approved alternate plans as described in subdivision (b)(2) are exempted from this requirement."

(2) An urban water supplier may submit a request to the Executive Director for approval of an alternate plan that includes allocation-based rate structures that satisfies the requirements of chapter 3.4 (commencing with section 370) of division 1 of the Water Code, and the Executive Director may approve such an alternate plan upon determining that the rate structure, in conjunction with other measures, achieves a level of conservation that would be superior to that achieved by implementing limitations on outdoor irrigation of ornamental landscapes or turf with potable water by the persons it serves to no more than two days per week."

Background

The state's largest urban water provider, Los Angeles Water & Power, developed a protocol for "Large Landscapes" in 2010 that allowed certain turf dependent business enterprises to comply with that public utility's Emergency Water Conservation Ordinance through an "alternative means" that permitted irrigation outside of designated day of week/time of day proscriptions applicable to all other outdoor ornamental/turf irrigation, both personal and business. It is not based on an allocation-based rate structure but rather a budget-based allocation structure from which qualifying "Large Landscapes" must irrigate at designated reductions therefrom depending upon which "Phase" of Los Angeles' Water Conservation Ordinance is in place at any given time. Los Angeles has remained in "Phase II" since 2010, which requires "Large Landscapes" such as golf courses, parks, cemeteries and sports fields to reduce by a factor of at least 20% from an ET-based budget assigned by LADWP their irrigation in order to remain an enrollee in good standing in the "Alternative Means of Compliance" protocol. The penalty for falling out of compliance with this 20% reduction is to be thrown out of the program and subject to extant time of day/day of week outdoor restrictions. LADWP reports that 5 years of data reveal an overall 23% reduction of the golf water footprint in comparison with usage prior to the 2007-2009 drought for which the Emergency Water Conservation Ordinance was developed. The golf industry fully expects that Los Angeles will soon move to Phase III reduction mandates, which will require greater savings than 23%; however, the Los Angeles golf industry will be able to achieve those greater savings through means consistent with their ability to remain viable turf dependent business proposition, unless, of course, this Proposed Emergency Regulation proscribes Los Angeles' ability to continue allowing such "alternative means" to the shared end of further water use reductions.

Because Los Angeles' "Alternative" protocol more than accomplished the ends for which these and other means in the city's Emergency Water Conservation Ordinance were adopted (i.e., an overall 15% reduction), other public utilities and water providers throughout the state have adopted a parallel protocol for their "Large Landscapes" either through administrative or legal means, or as in the case of San Diego, which is in the process of trying translate its own "Alternative" administrative protocol into a legislative one, both. The protocol resonates, because it achieves results while allowing turf dependent businesses such as golf courses to keep their doors open despite onerous curtailments/reductions in water application. Indeed, there are golf courses in drought ravaged Santa Barbara County muddling through on 50% reductions at the moment. What they cannot "muddle through" are arbitrary two day per week/time of day restrictions. And to the extent to which these Emergency Regulations are crafted to either actually proscribe or seemingly proscribe urban water providers from continuing with or moving forward with what the state's largest city and water provider so successfully pioneered in 2010, needless harm will be done to the state's \$13.3 billion golf industry.

Comments

While a fully informed reading of this Proposed Section would seem to indicate that what Los Angeles Water & Power has been doing with respect to “Large Landscapes” per Ordinance, others are doing per administrative application, and other large urban water providers are currently contemplating is permissible thereunder. But given the reality that the language contained therein must be interpreted by each urban water provider, the golf industry is concerned by the following:

- That many may construe the language as mandating the application of two day per week restrictions;
- That many may construe the language as applying this mandate to industrial users or large landscapes in addition to residential outdoor irrigation and ornamental landscapes;
- That many may construe the language as obviating both extant and envisaged forms of “alternative means” of complying with the ends spelled out in their own drought contingency plans/ordinances and duplicated by the goals sought by this Proposed Section; and
- That many providers may find that the following qualifier in Section (2) obviates their extant or envisaged “alternative means” protocols, because such protocols are budget-based allocation structures instead of the “allocation-based rate” structure specifically referenced in the Proposed Section:

“An urban water supplier may submit a request to the Executive Director for approval of an alternate plan that includes allocation-based rate structures”

To the extent to which we have interpreted both the letter and spirit of the Proposed Section accurately, we would strongly recommend that the Board clarify the language of the Proposed Section to ensure that these “alternatives” to day of week restrictions, so long as they are “approved” per the test enunciated in Section (2) above – “*achieves a level of conservation that would be superior to that achieved by implementing limitations on outdoor irrigation or turf with potable water by the persons it serves to no more than two days per week*” – are permissible. And are permissible to adopt if they have not yet been adopted or implemented.

In addition, we would recommend that the Board clarify the language of the proposed Section to permit urban water suppliers to sanction an alternate plan as described in Section (2) that includes both allocation-based rate structures and budget-based allocation structures.

Adding a handful of words to Section (2) so that it reads as follows would cure the problem:

2) An urban water supplier may submit a request to the Executive Director for approval of an alternate plan that includes allocation-based rate structures or budget-based allocation structures that satisfies the requirements of chapter 3.4 (commencing with section 370) of division 1 of the Water Code, and the Executive Director may approve such an alternate plan upon determining that the rate or budget structure, in conjunction with other measures, achieves a level of conservation that would be superior to that achieved by implementing limitations on outdoor irrigation of ornamental landscapes or turf with potable water by the persons it serves to no more than two days per week.

In addition, we would recommend that the subject “summary” language be amended as follows to avoid any confusion about a two-day-per-week applicability to “Large Landscapes.”

*Proposed section 865 directs urban water suppliers to implement the stage of their water shortage contingency plan that imposes mandatory restrictions on the number of days that outdoor irrigation is allowed, requires those urban water suppliers without adequate drought shortage contingency plans to adopt them or other measures to promote conservation within thirty days, and report monthly water production information to the State Water Board. This section also requires urban water suppliers that don't already impose a limit on the number of days that outdoor watering is allowed to limit outdoor irrigation of turf and ornamental landscapes to no more than two days per week. **"Alternative Plans" approved as specified for Large Landscapes satisfy the requirement.***

Conclusion

Results are the test, not means, and the "Alternative" protocols pioneered by the state's largest city and water provider and copied by so many other urban water providers has achieved quantifiable results.

Should you desire further clarification or dialog about any of the points raised herein, please feel to contact me via E-mail at csthomas@pgahq.com.

Thank you for your time and attention.

On behalf of the California Alliance for Golf,



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