



THE CITY OF SAN DIEGO

January 28, 2016



Sent via Electronic Mail to Kathy Frevert at Kathy.Frevert@waterboards.ca.gov

The Honorable Felicia Marcus, Chair
and Members of the State Water Resources Control Board
c/o Ms. Kathy Frevert
State Water Resources Control Board
1001 I Street
Sacramento, Ca 95814

Dear Chair Marcus and Members of the Board:

The City of San Diego's Public Utilities Department (San Diego) is pleased to have this opportunity to provide input on the State Water Resources Control Board's (State Water Board) proposed extended emergency regulation for urban water conservation (Emergency Conservation Regulation).

San Diego has consistently promoted a statewide framework for drought resilience that aligns with the approach we have taken locally – encouraging the integrated development of water use efficiency, storage, and new supply projects within the parameters that make best sense locally. Doing so has allowed San Diego to reduce per capita water use significantly while also pursuing cost-effective new water supply and storage projects. Pursuing all three strategies concurrently will provide San Diego with a level of drought resilience that could not be accomplished with conservation alone and, as such, we continue to advocate for State policies promoting an integrated, multi-strategy approach to drought resilience.

New Local Drought-Resilient Supply Credit

San Diego greatly appreciates the State Water Board's expanded recognition of new supply development by providing a reduction of between 4% and 8% to an agency's conservation standard for the certified development of new local, drought-resilient water supplies, the use of which does not reduce the water available to another legal user of water or the environment¹.

The 8% standard aligns with San Diego's ability to achieve full recognition for the newly produced desalinated seawater now being produced at Carlsbad. As such, the proposed credit meets San Diego's immediate needs. We are truly grateful for the State Water Board's responsiveness to our calls for ratepayer equity and an integrated approach for encouraging statewide drought resilience.

¹ San Diego's interprets "the use of which does not reduce the water available to another legal user of water or the environment" to mean that seawater desalination and coastal potable reuse projects are qualifying projects. We request confirmation of this assumption in writing prior to the February 2, 2016 State Water Board meeting.



As a matter of good policy, we recommend consideration of allowing 1% reduction levels for any level of new supply development, instead of only for tiers 5% – 8%². Otherwise, projects providing new water supplies under 4% of an agency's conservation standard will not be recognized. This will have the adverse effect of discouraging smaller supply projects in the future which is not fair to smaller systems and is not in the State's interests by potentially discouraging smaller new supply projects.

End-User Requirements

San Diego supports the proposed continuation of the State's prohibitions on certain water uses (found in Section 864 of the Proposed Emergency Conservation Regulation) during drought conditions. Please note that San Diego established permanent water use prohibitions as part of its baseline commitment to water conservation³ and believes that these types of water use restrictions can be established statewide via tools other than another extension of the emergency conservation regulation if water supply conditions merit discontinuation of the emergency declaration.

Alignment of the Emergency Conservation Regulation with Emergency Conditions

It is critical to the credibility of the State Water Board's authority that the Emergency Conservation Regulation not be continued artificially, when water supply conditions no longer represent an emergency situation. Moreover, Government Code §11346.1(b)(2) establishes that *a finding of emergency based only upon expediency, convenience, best interest, general public need, or speculation, shall not be adequate to demonstrate the existence of an emergency*. If emergency conditions no longer exist, the State is required to immediately repeal the emergency regulation⁴.

We believe that some of the information included in the Emergency Regulations Digest (Digest) as proof of emergency conditions is *speculative* or *in the best interest of the general public's need* – conditions for the repeal of an emergency regulation. Specifically, we believe that references in the Digest (page 6) to the potential impacts that climate change will have on water supply reliability is speculative and cannot be represented as grounds for continuation of emergency conditions. We request removal of this text from the Digest. It is essential that the enactment of the Emergency Conservation Regulation aligns with true water scarcity and is not extended falsely in order to expediently and conveniently achieve water conservation goals that may be considered to be in the best interests of the general public. There are other mechanisms for achieving general water conservation goals. San Diego calls on the State Water Board to work with the Department of Water Resources to establish and publish clear metrics for determining the basis for California's drought emergency status by no later than April 2016. Water agencies and Californians deserve to understand the conditions necessary for ending drought regulations.

² Section 865(f)(3), add:

- (A) By one (1) percentage point if the supplier's qualifying source of supply provides one (1) percent or more but less than two (2) percent of the supplier's total potable water production;
- (B) By two (2) percentage point if the supplier's qualifying source of supply provides two (2) percent or more but less than three (3) percent of the supplier's total potable water production;
- (C) By three (3) percentage point if the supplier's qualifying source of supply provides three (3) percent or more but less than four (4) percent of the supplier's total potable water production;

³ See www.sandiego.gov/water/conservation/drought/prohibitions.shtml

⁴ Government Code §11346.1(b)(3).

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Emergency Regulation 2.0 – Encouraging Drought Resilience

Inasmuch as the revised Emergency Conservation Regulation has been improved by allowing agencies the ability to apply for a credit of up to 8% towards conservation standards for the development of drought-resilient water supplies, we believe that the existing framework's focus on achieving resilience through water conservation only is insufficient – a better way is needed.

San Diego is prepared to move forward with Phase 1 of its Pure Water program to reuse up to 30 million gallons per day of water by 2021 that would otherwise be lost to the ocean. That represents 30 million gallons per day of imported water supplies that will become available to the rest of the State. This project is very much in the mutual long-term interests of both City of San Diego and the State. Unfortunately, this next investment in reliability will not be recognized in the State Water Board's current framework for drought response because it exceeds the 8% cap.

We seek assurances that our ratepayers' investments in this additional increment of drought resilience will be recognized in a future Emergency Drought Regulation that appropriately assesses drought resilience from an integrated perspective – recognizing each community's investments in conservation, storage, new drought-resilient supplies and voluntary water transfers.

California's ability to successfully achieve a drought resilient future depends on assuring that we set the right goals. It is imperative that the State Water Board take the intervening time of the next 270 days to create a new Emergency Regulation for use in future scarcity situations that focuses on an integrated approach to water management within drought circumstances. The revised approach should acknowledge and reward investments made at the local level to improve local drought resilience to properly incentivize proactive actions to ensure future droughts are less impactful statewide.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Halla Razak', with a stylized flourish at the end.

Halla Razak, P.E.
Director, Public Utilities Department