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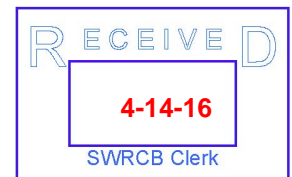
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April 14, 2016

VIA E-MAIL

Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Fl.
Sacramento, CA 95814



Re: Comments in Response to Notice of Public Workshop on Urban Water Conservation

Dear Ms. Townsend:

We are special water counsel to the City of Bakersfield ("Bakersfield" or "City"). On behalf of Bakersfield, we submit the following comments on potential adjustments to the February 2016 Emergency Regulation in response to precipitation amounts and other drought indicators across the state since February 2016 pursuant to the Notice of Public Workshop on Urban Water Conservation dated March 22, 2016. Bakersfield also intends to attend the noticed public workshop on urban water conservation scheduled for April 20, 2016.

Bakersfield has previously submitted comments to the extension and modification of the now-adopted February 2016 Emergency Regulation on December 2, 2016 (Comments to Urban Water Conservation Workshop), January 6, 2016 (Comments on Proposed Regulatory Framework for Extended Emergency Regulation for Urban Water Conservation) and January 28, 2016 (Comments on Proposed Text of Extended Emergency Regulation), which comments are incorporated herein by reference.

Bakersfield provides the following comments to Questions 1 and 3 identified by the Water Board in its March 22, 2016 Notice.

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Question No. 1: What elements of the existing February 2016 Emergency Regulation, if any, should be modified and how so?

Increased precipitation over the last few months has resulted in a close to average water year throughout the State. Bakersfield therefore believes that the current regulations should be repealed or suspended during the current water year. If severe drought conditions return, the provisions of the Emergency Regulation could be re-adopted or reinstated during the Winter of 2016-2017.

In addition to this general comment, Bakersfield suggests the following modifications to the February 2016 Emergency Regulation currently in effect.

Monthly Reporting Requirements

Given current water supply conditions, the Water Board should eliminate the mandatory monthly reporting requirement for urban water suppliers in Section 865(b)(2) of Title 23 of the California Code of Regulations (“C.C.R.”). Instead of an “across-the-board” mandatory monthly requirement on all urban water suppliers, Section 865(b)(2) should be amended to make the reporting requirement mandatory “on request” of the Water Board to an individual urban water supplier. Such an amendment would provide the Water Board with the ability to continue monitoring or checking on urban water suppliers falling far short of mandated conservation standards but relieve the reporting burden on urban water suppliers largely in compliance with the Emergency Regulation.

Non-Potable Recycled and Reclaimed Water

Bakersfield supported the modifications to the Emergency Regulation adopted February 2, 2016 providing credits and adjustments to urban water suppliers’ conservation standards that account for differences in climate, new water-efficient growth experienced by urban areas since 2013, and the development of drought-resilient sources of supply, but believes that additional credits and adjustments are warranted. The credit or offset to acknowledge and account for the development and use of potable recycled water as a drought-resilient supply source should be expanded to include the use of non-potable recycled and reclaimed water. (See 23 C.C.R. § 865(f)(3).) Bakersfield, along with the Association of California Water Agencies (“ACWA”) and a number of other entities, have previously recommended a credit, offset or other reduction in water production or R-GPCD, to account for the use of non-potable, reclaimed water.

Bakersfield, for example, utilizes increasing quantities of tertiary treated, or recycled, water for outdoor irrigation, pursuant to the California Water Plan, the Water Board’s April 25, 2013 Recycled Water Policy, and the Water Board’s mandate to increase the use of recycled water. The City also develops additional water supplies by “de-nitrifying” secondary treated water supplies, and by using over 330 sumps throughout the City to capture stormwater for recharge and re-use. Bakersfield is currently generating and producing approximately 1,000 acre-feet of non-potable, recycled water (purple pipe) each year for outdoor irrigation. Out of a

total demand of 43,000 acre-feet annually within the City's domestic service area, this equates to approximately 2% of water demand.

Bakersfield and other urban water suppliers, however, have not actually realized any benefit from their continuing investment in, and production and use of, recycled water under the Emergency Regulation. Because non-potable water use is not subject to the water use reduction, the City must still seek out greater water use reductions from its potable water customers, which penalizes all of the City's potable use customers and results in a de facto (and inequitable) increase in its conservation standard. Moreover, failure to account for recycled water use by urban water suppliers also acts as a disincentive for continued investment in the production and use of recycled and reclaimed water in order to conserve potable water supplies. This is contrary to beneficial and established California policies promoting the use of recycled and reclaimed water as an important tool for overall water sustainability. For these reasons, the current Emergency Regulation should be further modified to provide for an offset, credit, or other reduction, that accounts for the reduction in an urban water suppliers' water demand due to the use of non-potable recycled and reclaimed water for outdoor irrigation.

Stored Water Supplies

The February 2016 Emergency Regulation should be further modified to provide a credit, adjustment or offset for water extracted from surface or groundwater storage, as has previously been recommended by Bakersfield and other commenters, including ACWA. The Emergency Regulation, in its past and current forms, does not recognize or support ongoing groundwater management efforts by various entities and the strong practical and policy support for groundwater management, and banking and storage, in the California Water Action Plan and other State regulations, statutes and policies.

Bakersfield owns water storage, transportation and recharge facilities with excellent water flow measurement capabilities, including through Lake Isabella and the City's 2800 Acre Groundwater Recharge Facility. These facilities provide a highly efficient method for managing water in both wet and multiple drought years. Bakersfield developed such facilities consistent with and supported by relevant State statutes and policies, with the specific intent of providing a supplemental water supply for drought and dry year conditions. The City, and other suppliers, bank and store water in groundwater storage facilities in times of surplus for later use when *existing* supplies are insufficient and need to be conserved. Rejection of a groundwater banking credit contradicts such policies and discourages investment in the development of groundwater storage and banking programs and the use of stored and banked groundwater in lieu of surface water supplies during drought conditions.

Section 865(c)(2) of the Emergency Regulation already recognizes that the use of surface water from storage under certain conditions does not exacerbate or add to drought and water shortage conditions, and, therefore, does not need to be counted or considered in connection with

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water use reductions. This provision should be expanded to apply to all water held in storage, including banked groundwater.

Question No. 3: To what extent should the State Water Board consider the reliability of urban water supply portfolios in this emergency situation?

Reliability of an urban water supplier's water supply portfolio should be taken into account in the establishment of an applicable water conservation standard, if any, under the Emergency Regulation. Significant investment in developing additional and supplemental water supplies should be acknowledged and accounted for through credits and offset or other reductions to R-GPCD.

As noted above, Bakersfield has invested in the development of both non-potable, recycled and reclaimed water for outdoor irrigation as well as extensive facilities for water storage including storage in Lake Isabella and the City's 2800 Acre Groundwater Recharge Facility. In particular, the City's water storage facilities allow the storage of surplus water for later use when existing supplies are insufficient and need to be conserved. Through these actions, taken consistent with State policies and statutes promoting the development of alternative and supplemental water supplies, Bakersfield has established a reliable urban water supply portfolio capable of serving its customers' needs in times of prolonged drought. Bakersfield, and other urban water suppliers, that have planned for and invested significant resources in developing reliable water supply portfolios should receive credits and offsets to their water conservation standards that fully account for the alternative and supplemental water supplies available to reduce the use of existing sources of potable water supplies during drought conditions. As such, the offsets and credits to water conservation standards provided in the February 2016 Emergency Regulation should be expanded to include important components of a reliable water supply portfolio including the use of non-potable recycled and reclaimed water for outdoor irrigation and the development of surface and groundwater storage supplies.

Thank you for the opportunity to provide these comments to the noticed workshop to consider potential adjustments to the February 2016 Emergency Regulation. Please let us know if you have any questions or require any further information on these matters.

Sincerely,



Colin L. Pearce

CLP:cwc

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cc: Virginia Gennaro, City Attorney
Art Chianello, Water Resources Manager
Alan Tandy, City Manager