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January 6, 2016

Ms. Felicia Marcus, Chair, and  
Commissioners of the State Water Resources Control Board  
1001 I Street, 24th Floor  
Sacramento, CA 95814

(Delivered by e-mail to: Kathy Frement@waterboards.ca.gov)

**Subject: Comments on Proposed Regulatory Framework**

Dear Chair Marcus and Commissioners of the State Water Resources Control Board:

On behalf of the Board of Directors and Rincon Water customers, thank you for the opportunity to submit these comments regarding the Proposed Regulatory Framework for Extended Emergency Regulations for Urban Water Conservation dated December 21, 2015. We appreciate that the State Board has listened to and considered comments from the water community, incorporated some of this into the Extended Regulations, and made this process as open and inclusive as practical. We appreciate the Board's efforts to balance the Governor's continued directives for conservation during this drought, while witnessing an increasing water supply due to the current El Nino.

Of considerable importance going forward are the decisions to be made based on improving water supply conditions due to climatic conditions. The Governor in his November 13, 2015 Executive Order extended the period for emergency drought measures to October 31, 2016, but further directed the SWRCB to evaluate water supply conditions at the end of January 2016. Unfortunately, the proposed regulatory framework is silent in that regard, and it is recommended that language be included in the regulatory framework.

It is recommended that a water supply and drought response protocol be established and included in the regulatory framework to be approved in February 2016. This protocol could be as simple as:

1. As of February 1, 2016, if the CDEC measurement of snow water content is at or above normal; DWR projections for run-off are at or above normal; and DWR estimates a 75% chance of 3 MAF or more in SWP Table "A" Deliveries, THEN the SWRCB reduces the 25% statewide conservation mandates/goals to 10%, effective May 1, 2016. Retail water agencies would still maintain water waste restrictions as published in July 2014 and in accordance with agencies existing drought response plans and levels.
  - a. If conditions above do not exist as of February 1, 2016, then agencies would continue to implement requirements as adopted in the regulatory framework and extended regulations until the next evaluation cycle on April 1, 2016.
2. As of April 1, 2016, if the CDEC measurement of snow water content is at or above normal; DWR projections for run-off are at or above normal; and DWR SWP Table "A" Deliveries are at 2.25 MAF long-term average, THEN the SWRCB reduces the 25% statewide conservation mandates/goals to 10%, effective May 1, 2016. Retail water

agencies would still maintain water waste restrictions as published in July 2014 and in accordance with agencies existing drought response plans and levels.

3. If DWR delivery amounts meet or exceed either 1 or 2 above by April 1, 2016, THEN the SWRCB would lift the mandatory 25% statewide conservation order effective May 1, 2016. Retail water agencies would still maintain water waste restrictions as published in July 2014 and in accordance with agencies existing drought response plans and levels.

The State Board would continue to monitor pertinent water supply conditions and data provided by DWR for the months of May through December 2016, and in 2017, based on various conditions of the drought impacts, could either maintain the voluntary conservation called for by the Governor, or initiate a graduated protocol of resuming an appropriate level of water conservation mandates to meet the current conditions. This would also allow the State Board to work with various constituents to develop appropriate long term conservation standards and policies.

It should be noted that a good majority of water agencies, through their UWMPs and Drought Response Ordinances/Plans, have well established mechanisms that would allow these agencies to move in and out of drought conditions, based on local water supply conditions. Adopting the proposed drought response protocol above would allow local and regional agencies to continue to utilize local/regional resources, develop additional drought tolerant sources of supply, and coordinate regional requirements, while still promoting conservation ethics and practices. Some water agencies are already under extreme scrutiny by ratepayers who have invested heavily to develop drought tolerant and sustainable sources of supply, have seen rates increase while usage decreases (to cover operating costs), and then told to conserve and cut back (some at 32 or 36% from 2013) even while their wholesale agencies can provide 98-99% of annual demand, while an El Nino dumps record amounts of snow and rain throughout the state and region.

In regards to specific items in the proposed extended regulation framework, the following comments are provided. First, and to reiterate, it is highly recommended that a water supply and drought response protocol needs to be included, whether that identified above or one similar. Next, we wholeheartedly support adjustments related to climate, growth, and development of drought resilient supplies. In regards to these items, the following pertains:

- **Drought Resilient Supply Adjustment:**
  - o Credit should be given for drought-resilient supplies developed prior to 2013. Literally hundreds of millions of dollars (billions) were invested prior to 2013 to develop a myriad of alternate supplies, whether they were expanded recycled water systems, desalinated brackish groundwater, improved storage and conveyance systems, or conserved water from long-term transfers. All these projects significantly reduced the demand on the State Water Project, and is evident in that southern California, especially San Diego, receives significantly less water (almost 50% less) now from the SWP than it did 20 years ago.
  - o Further in regards to drought resilient sources of supply, Colorado River water is a separate source of supply for a portion of the State, and by southern California's diligent efforts and considerable financial investment, the programs

and projects executed actually mitigated the impacts of the drought to northern California and other portions of the state, and should be dutifully credited in the framework regulations.

- Related to indirect potable reuse or desalination, a one for one credit should be given for these supplies as percentage of total supply to an agency. For the State Board staff to only recommend a 4% reduction does not appropriately recognize the investments and effort to develop these supplies, nor does it reflect the importance and value on the local and state economy. More importantly, it sets an extremely dangerous precedent in not recognizing the true worth of these supplies, and deters local agencies from making future investments in drought resilient supplies if drought regulations don't give the proper credit and recognition. Again, agencies are under extreme scrutiny by ratepayers, who have paid for these investments and alternate supplies, and pay a higher monthly rate, yet are told they can't use them, or receive credit for them. As is the case for San Diego, a conservation reduction credit should be given commensurate with the benefit received by desalination, that being 8-10%, as that is in line with the percentage of supply the desalination plant provides the region.

**Climate and Growth Adjustment:**

- Each credit for weather, growth, drought resilient supplies, and other areas should not be capped for a cumulative total credit of no more than 4%. Each credit should stand on its own, and be allowed to be applied the maximum amount. For instance, water agencies who are in the warmest part of the State, and who are also experiencing significant population and CII growth should be able to claim the maximum of both credits, not just a total of 4%. This is fair and equitable to these agencies.

**- Commercial Agriculture Exemption Adjustment:**

- It is recommended that NO changes be made, or any new requirements stipulated, related to the commercial agricultural exemption already in place. The \$1000 threshold is an arbitrary amount, and not in concert with well-established legislative rules and definitions. It adds a complex and administratively burdensome requirement to water agencies to validate, who already are working diligently within established rules and requirements.

The current emergency regulation's focus on achieving the state's water reduction standards solely through conservation does not allow regional or local water agencies to realize the benefits of their investments in water supply reliability – investments in self-reliance that are consistent with Governor Brown's Water Action Plan. This approach threatens to discourage ratepayers from supporting future water supply investments, stunting California's ability to meet the needs of its growing population amid a changing and more challenging climate. The continued imposition of demand reduction targets as the state's primary drought response also places California at a competitive disadvantage in terms of business attraction and business expansion. These businesses and industries need to be convinced that the state is doing everything in its power to develop new and drought-resilient water supplies to serve their businesses. As noted above, one of the things the state can do now is amend the regulation to provide credits for any supply development. In fact, in our service area we have one of

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California's largest breweries and several other companies reliant on water as a mainstay of their business. The current regulations complicate maintaining a healthy economy and supporting business while balancing the mandated reductions on the backs of residential customers.

For further consideration, and mentioned in part on specific adjustment comments above, because the potential wet conditions this winter will impact the supply conditions differently throughout the state, we recommend the State Water Board to adjust urban water supplier mandates based on their local supply conditions and whether they are experiencing any shortages and/or have adequate storage supplies available (whether ground water, surface water, desalination, recycled offsets, or water transfers, to name a few). A majority of retail agencies receive supplies from a wholesale provider, and if the wholesale provider can verify adequate water supply is available from various sources, then those agencies should receive a reduced conservation mandate or no mandate at all. Crediting drought-resilient supply development appropriately recognizes water agencies and their ratepayers who have had the foresight to invest in long-term, local water supplies and conservation and transfer agreements. Agencies who have diversified their portfolio continue to be penalized with a "one-size-fits-all" approach. This does not mean conservation will still not be utilized or locally enforced, but done through an already established process of Drought Response Plans and specific local conditions retail agencies are best positioned to manage.

Thank you for the opportunity to provide these comments on the Proposed Regulatory Framework for Extended Emergency Regulations for Urban Water Conservation. I am encouraged that previous comments and recommendations from the water industry have been included in these draft extended regulations and that you further consider the recommendations contained in this letter and those of my colleagues. Please feel free to contact me at [gthomas@rinconwater.org](mailto:gthomas@rinconwater.org) or 760-745-5522 for any additional comments or if you require clarifications to our comments.

Sincerely,



Greg Thomas  
General Manager