



PASADENA WATER AND POWER

February 9, 2018

Sent via email: commentletters@waterboards.ca.gov

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

Subject: "Comment Letter - Changes to Proposed Regulation Prohibiting Wasteful Water Use Practices"

Dear Ms. Townsend:

Pasadena Water and Power ("PWP") appreciates the opportunity to provide comments on the State Water Resources Control Board's ("State Water Board") changes to the proposed draft regulation ("Proposal") to prohibit certain "wasteful water uses." The Proposal is intended, in part, to replace similar prohibitions that were part of the emergency drought response regulation, which expired on November 25, 2017. However, the unique climate and demographic conditions in this diverse State warrant regulations that can be tailored for individual agencies and communities versus the elements of this overly prescriptive and burdensome Proposal.

The City of Pasadena ("City") has institutionalized water conservation practices and promoted the wise use of water resources as part of the social fabric long before the recent drought, and has continued to do so since the drought was declared over last spring (the City is still in a Level 1 Water Supply Shortage stage). PWP's residential and business customers have adopted efficient behaviors and invested in water efficient devices and landscapes. As a result, PWP's water demand is the lowest since 1952 despite a 30% increase in population served and a tremendous increase in non-residential development.

To ensure reliable water supplies, PWP invested in diversification of the water portfolio including water reuse and continues to develop large-scale infrastructure projects, which take decades to finance. Additionally, PWP worked cooperatively with neighboring agencies to ensure best use of the water resources available; surface water, ground water, imported water and recycled water. Conserved water has also been a key component of our resources plan to achieve the right local and regional balance.

As the State Water Board is aware, most of California's urban water suppliers have already locally prohibited many of the "wasteful water uses" which were included in the emergency drought response regulation and are now proposed for permanent statewide prohibition. Therefore, as the State Water Board's own analysis suggests, potential additional annual water savings associated with the State Water Board's proposed prohibitions would be essentially inconsequential and action on a statewide basis could therefore be considered unnecessary from a practical perspective.

Pasadena is proud to be an early adopter of water conservation measures and environmental stewardship. Many of the proposed prohibitions are already included in Pasadena's existing Water Waste Prohibitions and Water Shortage Plan ordinance adopted in 2009 and strengthened in 2017. Through these efforts, the Pasadena community has long been integrated into "water conservation as a way of life." Therefore, we recommend that some of the proposed prohibitions be amended and others dropped, as described below. Moreover we remain concerned regarding the State Water Board's intention to use its general authority to prevent "waste and unreasonable use" as a means to categorically prohibit certain water use practices without consideration of specific water use circumstances as required by law. Instead, we support reframing the State Water Board's action as requiring water users to eliminate inefficient water use practices and maximize the beneficial use of water through increased water conservation.

Proposed Prohibitions Pasadena Supports

PWP supports the following proposed prohibitions based on the principle of beneficial use, where water users are expected to manage their application of water to achieve the intended use without purposeless "waste":

- Runoff from outdoor landscapes "... in a manner that causes more than incidental runoff such that water flows onto adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots, or structures."
- Uncontrolled flow from "... a hose that dispenses water to wash a motor vehicle, except where the hose is fitted with a shut-off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use."
- "Use of potable water in an ornamental fountain or other decorative water feature, except where the water is part of a recirculating system or the fountain is registered on the National Register of Historic Places."
- "Operators of hotels and motels shall provide guests with the option of choosing not to have towels and linens laundered daily. The hotel or motel shall prominently display notice of this option in each guestroom using clear and easily understood language."

The following proposed prohibition that PWP supports with the amendment indicated (or functionally equivalent amendment as proposed by others), is based on the need to preserve local discretion to administer the measures to address local conditions:

- “The application of water to irrigate turf and ornamental landscapes during and within 48 hours after measurable rainfall ~~of at least one-fourth of one inch of rain.~~” This amendment restores needed local flexibility to balance highly localized and variable rainfall patterns, site-specific landscape irrigation needs, and the technical limitations of rain sensors and irrigation controllers. This amendment is also in keeping with the wording of the previous emergency drought prohibition, which was effectively administered in Pasadena.

Proposed Prohibition Pasadena Opposes

PWP opposes the following proposed prohibition as being unnecessarily burdensome or too prescriptive. We believe that the effectiveness and details associated with this provision are best left to the judgment of local water suppliers, based on local needs and conditions:

- “As of January 1, 2025, the irrigation of turf on public street medians or publicly owned and maintained landscaped areas between the street and sidewalk, except where the turf serves a community or neighborhood function ... or the turf is irrigated with recycled water through an irrigation system installed prior to January 1, 2018.”

Irrigating turf with recycled water in any landscape context in California is not now, nor should be considered a “wasteful” use of water. The proposed regulation should honor local decisions in existing and ongoing investments in recycled water and corresponding infrastructure. Moreover, the proposed regulation is counter to the effective use of a resource, which has been processed and treated to this level to achieve this purpose. Such a prohibition on a permanent statewide basis is unreasonable, and (as shown in the State Water Board’s own analysis) would not result in enough water savings to justify the high cost of this unfunded state mandate.

Landscaping and maintenance decisions associated with medians and adjacent parkways are subject to widely varying local considerations and expectations statewide. Moreover, the City and all other local jurisdictions must already comply with the Model Water Efficient Landscape Ordinance (“MWELo”) with regard to new landscapes and irrigation standards.

Opposition to Use of the Phrase “Waste and Unreasonable Use” as the Legal and Policy Basis for Action

PWP joins with many other agencies to express that we believe use of the Proposal to declare certain water uses and practices to be a “wasteful and unreasonable” by regulation “is contrary to law, inequitable to water right holders affected by the regulation, and contrary to the current state policy of encouraging water conservation without affecting water rights.”

PWP urges the State Water Board to reframe this Proposal as requiring water users to eliminate inefficient water use practices and maximize the beneficial use of water through increased water conservation.

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in blue ink, appearing to read "Gurcharan S. Bawa", with a horizontal line underneath the name.

GURCHARAN S. BAWA
General Manager

cc: Michael Lauffer, Chief Counsel, State Water Board
Eric Oppenheimer, Chief Deputy Director, State Water Board
Max Gomberg, Climate and Conservation Program Manager, State Water Board
The Honorable Anthony Portantino, California State Senate
The Honorable Chris Holden, California State Assembly
Steve Mermell, City Manager, City of Pasadena
David Jones, Emanuels Jones and Associates