



County of San Diego



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May 1, 2015

Felicia Marcus, Chair
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Dear Chairwoman Marcus:

Re: Comment Letter-Emergency Conservation Regulation

The State of California is facing an unprecedented drought that may well stretch into a fifth straight year in 2016. The Governor's recent call to action to conserve water in his April 1, 2015 Executive Order No. B-29-15 was no surprise to the County of San Diego (County). The County has been actively working to conserve water at its jails, courthouses, parks and other public facilities for many years. The County is committed to helping the State Water Resources Control Board (Water Board) achieve the goals established by the Governor. In this spirit, the County provided comments to Water Board staff on the proposed regulatory framework and draft regulations. We have attached our previous comment letters for your convenience. These comments were well received and with regard to the credit proposal even identified as a possible approach in a Water Board fact sheet, but ultimately left out of the draft regulations released on April 28, 2015. We know swift and decisive action is warranted. We also know well-informed action is vital. Therefore, we are appealing to you directly, but will also provide these comments so that they may be included in the record of decision on the proposed Emergency Regulations.

The County's main concern with the Emergency Regulations is that by neglecting to directly address water conservation by cities and counties, the regulations miss an opportunity to allow cities and counties to join with the State to achieve the Governor's water conservation goals. Except in those instances where a city or county also happens to be a water supplier, the regulations would subject some local jurisdictions to regulations from potentially dozens of different water suppliers with different State mandated conservation standards. This approach has the unfortunate result of disincentivizing water conservation by cities and counties across the boundaries of multiple water suppliers and unfairly penalizing water suppliers with clusters of high, indoor water use facilities such as jails, courthouses and hospitals. In an effort to address this problem, the County proposed that the Water Board include a credit system in the Emergency Regulations whereby cities and counties could elect to independently achieve a generally applicable water conservation standard for their facilities across water district

boundaries. In addition, but not necessarily as an alternative, the County proposed an exemption for indoor water consumption at essential government facilities such as jails and courthouses. The County included draft language in its last comment letter that could be included in the Emergency Regulations to expediently implement both of these proposals.

The idea behind these proposals is not to allow cities and counties to avoid doing their part to conserve water. The idea is to find ways to better meet the Governor's objectives by allowing cities and counties to partner with the State. Nearly 60% of the potable water consumed at County facilities is for indoor uses at prisons, courthouses and hospitals, many of which are "24/7" facilities. The County has already taken significant steps to conserve water at these facilities by, among other things, installing water efficient sink fixtures, toilet flush valves, batch washers and low flow shower heads. At the County's East Mesa Detention Facility, these types of water conservation efforts resulted in 126 million gallons per year savings or about 56% of the water consumed at the facility. Similar efforts recently completed at the Vista Detention Facility are expected to save another 21 million gallons of water annually or about 42% of the water consumed at the facility. Recently completed water conservation measures at the County's East Mesa Detention Facility combined with water conservation projects underway at the Las Colinas Detention and Reentry Facility to install efficient laundry equipment are expected to save another 11 million gallons a year. Additionally, the County has already installed water efficient irrigation systems at 19 parks and replaced grass with artificial turf at four baseball fields and a soccer field. These actions were taken in furtherance of Board of Supervisors Policy, A-106 (Water Supply, Conservation and Reclamation) which requires water conservation efforts at County facilities and parks. The Policy was first adopted in 1986.

Failing to give cities and counties the option of accounting for their own facilities effectively leaves achievement of the Governor's water conservation standards to chance. There will be little incentive for cities and counties to implement additional water conservation measures for facilities that just happen to be located in districts with low conservation standards. Conversely, those urban water suppliers that happen to serve high, indoor use facilities such as jails, courthouses and hospitals where additional conservation measures needed to meet the State's conservation standards cannot easily be achieved will be unfairly penalized. The County's credit and exemption proposals are intended to incentivize water conservation by the County by encouraging greater savings in those areas where it can be achieved without regard to the State established conservation standard applicable to the water supplier that just happens to serve the facility. Water conservation is incentivized because the County can apply larger savings obtained at some facilities to other facilities where additional savings are unable to be achieved so that overall a generally applicable water conservation standard is still met. We think that this proposal has substantial merit in a jurisdiction like the County where institutional facilities with vastly different water consumption requirements are served by 30 separate water suppliers.

In addition, we would draw to your attention the fact that there is no procedure included in the Emergency Regulations for addressing unusual, temporary spikes in water consumption. There have been instances when because of needed building repairs, wildfires, waterline breaks or other unusual events that use of potable water may unexpectedly spike. Without some means of adjusting for these spikes in the Emergency Regulations, water suppliers risk being penalized for unusual events that may largely be outside their control. We would recommend that a means for excluding water use spikes caused by emergency response or activities necessary to protect, maintain or replace public or private facilities be included in the Emergency Regulations.

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We would ask that the Water Board carefully consider the County's credit and exemption proposals. The County would welcome an opportunity to join with the State to help achieve the water conservation targets established by the Governor. We think these proposals go a long way to helping the State meet the Governor's objectives. We sincerely appreciate your taking the time to consider these comments. If you should have any questions or concerns about these comments, please feel free to contact Donald F. Steuer, Assistant Chief Administrative Officer at (619) 531-4940 or April Heinze, Director, County Department of General Services at (858) 694-2527.

Sincerely,



HELEN N. ROBBINS-MEYER
Chief Administrative Officer

cc: Jeanine Townsend, Clerk to the Board, State Water Resources Control Board
Donald F. Steuer, Assistant Chief Administrative Officer/Chief Operating Officer
April Heinze, Director, County Department of General Services



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April 13, 2015

Jessica Bean
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

Dear Ms. Bean:

Re: State Water Board Implementation of Governor's Executive Order B-29-15

On behalf of the County of San Diego (County), we would like to thank the State Water Resources Control Board (State Water Board) for inviting comments from the County on the regulatory framework proposed by the State Water Board to implement the Governor's Executive Order B-29-15 (Executive Order). Given the unprecedented drought facing the State, the County recognizes the severity of the drought and welcomes the opportunity to work with the State Water Board to attempt to develop alternative water conservation strategies. We have some suggestions that we hope the State Water Board will consider as it starts to draft regulations implementing the Executive Order.

The County manages jails, detention centers, hospitals, courts, libraries, parks, airports and a host of other facilities over an expansive area served by thirty separate water agencies. Sixty percent of the County's potable water consumption comes from only seventeen facilities and a majority of these high water users are jails and hospitals which are "24/7" facilities. Significant reductions in landscape watering will do little to achieve the necessary water conservation levels at sparsely landscaped jails and hospitals. Moreover, these facilities are often clustered in a single water district so that meeting water reduction targets for the impacted water district may be disproportionately difficult.

Alternative Compliance Option for Government Agencies: To help manage this problem and assist the State Water Board in achieving the water reduction targets established by the Executive Order, the County proposes a credit system that would allow cities and counties served by multiple water agencies to be allowed the opportunity to opt facilities out of individual water agencies for purposes of achieving State conservation targets. A credit system would allow these government agencies to achieve overall savings across their operations while not penalizing the individual water districts serving facilities where savings cannot be achieved. For example, if significant savings in Water District "A" are obtained through conservation efforts but savings cannot be obtained in Water District "B" that serves multiple County jails and hospitals, then the credit for additional savings in District "A" would be applied to District "B". The cities and counties would have to separately report their potable water

usage and conservation levels to the State Water Board. To avoid unfairly penalizing cities and counties for having implemented water conservation measures, the generally applicable conservation standard applicable to the water agencies serving the facilities separately accounted for would be used as the conservation target (e.g., 20% reduction would apply to 5 facilities where 1 facility is in a 35% reduction area, 3 are in a 20% reduction area and 1 in a 10% reduction area). Cities and counties would have to report water usage figures to individual water agencies and indicate how the credits are being applied so the water agencies can account for the credits to ensure their usage and water savings are neither over-counted or under-counted.

Again, San Diego County has facilities served by thirty water districts, so allowing cities and counties to separately account for their potable water use across a number of facilities in separate water districts will have a number of significant benefits. It will encourage cities and counties to invest in substantial water saving technologies and practices at facilities where savings are readily achievable to support activities at facilities where, because of prior water conservation investments and existing water conservation successes or other factors, only very limited additional water conservation is possible. It avoids unfairly penalizing local water purveyors that disproportionately serve high water use government facilities like prisons and hospitals. It provides the County with an opportunity to be a partner with the State Water Board in helping to achieving compliance with the Executive Order rather than merely a regulated end user.

Allow Opportunity to Account for Regional Variation: The State Water Board has proposed to use residential per capita water use measured from a single reporting period in September 2014 as the basis for establishing a tiered conservation standard for all urban water suppliers in the State. Similarly, the State Water Board proposes using month-by-month comparisons from June 2013-February 2014 as compared to the same months from June 2015-February 2016 to establish achievement of conservation targets. The approach for both the baseline and the monthly comparisons fails to adequately consider unusual circumstances such as localized rain events, recently completed development and redevelopment, regional investment in alternative water supplies, and other factors that may make the choice of a limited baseline or monthly comparisons from which compliance is measured inaccurate.

The County appreciates the need to establish a clear starting point from which to measure compliance with the Executive Order, but regulatory success is often dependent on stakeholder buy-in. The surest way to achieve "buy-in" is to provide a mechanism by which factors impacting compliance measures in vastly different California regions can be fairly accounted for. We would suggest that local water purveyors, cities and counties be allowed to apply to the State Water Board for an adjusted tiered conservation standard or month-by-month water consumption level where unusual circumstances warrant adjustment. In a state as large and diverse as California, it is simply not possible for a single statewide compliance measure to fairly reflect all conditions, everywhere. There needs to be a mechanism to fairly account for regional variation.

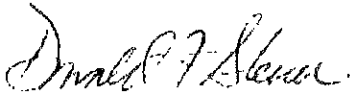
The last paragraph of the State Water Board's proposed regulatory framework states that regulations on large landscape water users not supplied by a water purveyor will be proposed. The County uses groundwater sources to supply some of its park and other facilities, but wouldn't consider these to be large landscapes. The County notes that none of the groundwater basins in San Diego County is identified as a high priority basin using the State's CASGEM Groundwater Prioritization

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Basin criteria. This is in stark contrast to the Central Valley and other regions in the State that rely to a much greater degree on groundwater. The County requests that the State take into consideration the relative demand placed on groundwater resources in various regions of the State when establishing statewide groundwater conservation targets; and, as with the its baseline and monthly conservation measures, establish a process whereby regional variation can be accounted for by the State Water Board based on an application from an impacted city, county or water agency.

Again, we would like to thank the State Water Board for inviting comments from the County of San Diego on the regulatory framework proposed to implement the Executive Order. We look forward to continuing this dialogue as the regulatory process moves forward. If you have any questions or would like additional information on any portion of the County's response to the draft regulatory framework please do not hesitate to contact me directly at (619) 531-4940 or April Heinze, Director County Department of General Services at (858) 694-2527.

Sincerely,



DONALD F. STEUER

Assistant Chief Administrative Officer/Chief Operating Officer

cc: Helen Robbins-Meyer, Chief Administrative Officer
April Heinze, Director, General Services



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April 22, 2015

Jessica Bean
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

Dear Ms. Bean:

Re: Proposed Emergency Regulations to Implement Executive Order B-29-15

The County of San Diego (County) appreciates the opportunity provided by the State Water Resources Control Board (State Water Board) to provide comments on the emergency regulations proposed by the State Water Board to implement Executive Order B-29-15 (Executive Order). Crafting a single set of regulations that fairly implements water conservation requirements in every community in a State as diverse as California is no easy task. The County offers these comments with the hope that they will assist the State Water Board in accomplishing this task.

Establish a Credit System: The County owns and operates a number of high water use facilities such as jails, courthouses and hospitals where water conservation opportunities are limited. While the County appreciates that the proposed regulations contain an exception to the conservation requirements otherwise placed on end users like the County for purposes of complying with State and federal permits or to address an immediate health and safety need, no similar exception is established for water suppliers. Water suppliers are expected to meet established conservation standards even though those agencies may disproportionately serve high water use government facilities. It is likely that some water suppliers will be unable to meet their water conservation standards because of their support of these facilities.

To address this problem, the County in its response to the State Water Board's proposed regulatory scheme suggested a credit system to be applied to city or county facilities located in multiple water districts. The State Water Board was apparently receptive to this idea, but proposed in the Fact Sheet for the proposed regulations that the system be applied between water agencies. While a credit system between water agencies would be a positive step, there will be very little incentive for water

agencies with lower conservation standards to support those with higher standards, or any guarantee that water agencies most impacted by their support of high water use government facilities will be benefitted. The County supports the development of a credit system between water agencies, but observes that such a system should be developed in addition to the County's proposal rather than instead of it.

Allowing the County the opportunity to meet a single water conservation standard for facilities located in multiple water districts, incentivizes water conservation by allowing the County to obtain credits where it can regardless of the water conservation standard for the water districts serving the facilities. The County can then apply credits to high water use facilities like courthouses and jails located in water districts that may have a disproportionately higher conservation standard because of these facilities. In this way, the County can conserve water in a manner consistent with the Executive Order without unfairly benefiting or harming water suppliers because of the type of government facility they just happen to serve.

The County would propose that the State Water Board allow for a credit system for cities and counties with facilities located in multiple water agencies by adding something like the following to Section 865 of the proposed regulations:

"Cities and counties with commercial, industrial or institutional facilities located within more than one urban water supplier or distributor of public water supply, as defined in Water Code section 350, may elect to independently achieve the water conservation standard applicable to a majority of the facilities. The cities and counties shall notify the urban water supplier, distributor of public water supply and State Water Board of those facilities subject to independent compliance and of the generally applicable water conservation standard. Urban water suppliers and distributors of public water supply may subtract the amount of water supplied for the facilities for which independent compliance is sought from its water production totals. The city or county shall submit a report to the State Water Board by December 15, 2015 showing the total potable water used, by month for the facilities, from June through November, 2015, and total potable water used for the facilities, by month, for June through November 2013."

Exemption for Indoor Water Use in Essential Government Facilities: Limiting the use of potable water for irrigation of ornamental landscaping and turf is a primary focal point of the Executive Order and implementing regulations. The County agrees that this is generally a reasonable place to look for water conservation. The regulations proposed by the State Water Board, however, establish water conservation standards regardless of whether potable water is used for landscaping or in support of a jail, courthouse or other facilities with very little landscaping, but high water use to support occupancy. The County believes that an exemption should be provided for internal water use for these types of facilities.

Using the exemption developed for commercial agriculture as a guide, we would suggest something like the following be added to Section 365 of the proposed regulations:

“Each urban water supplier or distributor of public water supply, as defined in Water Code section 350, that serves a jail, courthouse, detention facility, hospital, in-patient care facility or other government facility providing essential services may subtract the amount of water supplied for indoor use from its water production total. Each government agency providing an essential service shall certify that the use is essential and provide the certification to the water supplier together with the amount of water used for indoor purposes. Urban water suppliers shall report total water production pursuant to subdivision (b)(2), identifying the total amount of water supplied for the essential service.”

Need for Clear Definitions: There is no definition in the proposed regulations or the Executive Order from which they are derived of what constitutes a “commercial, industrial, or institutional property.” There is also no definition of “potable water.” Since water conservation by end users and water suppliers is tied to reductions in potable water use, it is critical that potable water be clearly defined. The commonly used definition for the term potable water is water treated to a drinking water standard. (e.g., California Health and Safety Code section 113869.) This definition is acceptable to the County. If a different meaning is intended by the State Water Board, the County would recommend that a definition for potable water be included in the regulations.

“Commercial, industrial, and institutional properties” are separately identified in the proposed regulations for water conservation and reporting purposes. The County was unable to locate a single definition for these terms in State law or regulations. Without a clear definition, certain end users may assume their activities fall outside the water conservation requirements set forth in the regulations. The lack of a clear definition could also result in inconsistent water use reporting from urban water suppliers that define these terms differently. To avoid confusion and ensure consistent implementation, the County would request that the State Water Board define these terms.

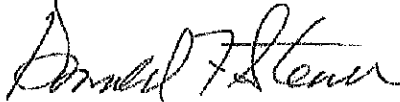
Continue Effort to Account for Regional Variation: In the County’s response to the State Water Board’s proposed regulatory scheme, the need to better account for regional variation was addressed in two primary ways: 1) Use of multiple month periods to establish water conservation standards and to measure achievement of those standards, and 2) Allow for modification of conservation standards to account for regional conditions such as alternative water supplies, agricultural uses and other factors. The County was pleased to note that the State Water Board endeavored to some extent to address both of these points in the proposed regulations.

The County, however, remains concerned that there is no general mechanism to address unusual circumstances that may adversely impact compliance with conservation standards. This could arise, for example, if during the months of July-September 2014 unusual weather conditions in a region unexpectedly drove down water use. There may also be instances where limiting an exception for agricultural uses where those uses amount to more than 20 percent of a water suppliers deliveries is unduly restrictive. We would again request that the State Water Board consider including a mechanism in the proposed regulations to allow for modification by the State Water Board of conservation standards to adjust for unusual conditions.

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Thank you for giving the County an opportunity to comment on the proposed regulations. If you have any questions or would like additional information on any portion of the County's response to the proposed regulations please do not hesitate to contact me directly at (619) 531-4940 or April Heinze, Director County Department of General Services at (858) 694-2527.

Sincerely,



DONALD F. STEUER

Assistant Chief Administrative Officer/Chief Operating Officer

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