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January 6, 2016

The Honorable Felicia Marcus, Chair
and Members of the State Water Resources Control Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Re: Proposed Regulatory Framework for Extended Emergency Regulation for Urban Water Conservation

Dear Chair Marcus and Members of the Board:

The California Municipal Utilities Association (CMUA), representing publicly-owned electric utilities and 40 water agency members that deliver water to over 70% of Californians, appreciates the opportunity to comment on the State Water Resources Control Board (State Board)'s Proposed Regulatory Framework for Extended Emergency Regulation for Urban Water Conservation (Proposed Framework).

As noted in our previous comment letters, CMUA appreciates the efforts by members of the State Board and your staff to work with and consider the comments of the water community throughout this process, which is clearly reflected in the Proposed Framework. California water agencies are dedicated to the investment, development, and implementation of extensive water conservation and water use efficiency activities to help the state meet its water management goals and will continue integrating these actions into their short-term and long-term water supply planning.

Include Provision to Account for Favorable Water Supply Conditions

CMUA strongly recommends that the State Board include language in the regulation regarding actions to that will be taken given a specific set of water supply conditions. Just as the State Board strengthened the restrictions as the drought worsened, there should be a protocol for reducing the restrictions and conservation standards should water conditions be favorable. Governor Brown's November 13, 2015 Executive Order (B-36-15) already acknowledges the need to

assess California's water supply situation at the end of January and with predictions for a strong El Niño, it is timely to have another assessment in April at the conclusion of the official water year. CMUA recommends that the State Board include the following criteria in the extended emergency regulation:

If on April 1, 2016, the:

- CDEC Measurement of Snow Water Content is at or above normal;
- DWR Run-off projections are at or above normal;
- Storage levels in SWP Reservoirs are at or above seasonal normal; and
- Based upon the above parameters, DWR SWP Table "A" deliveries are at a long term average of 2.25 MAF (DWR will have all the water supply data needed to make the final contract allocations for the coming water year)

Then the State Board:

- Reduces the mandatory 25% state wide conservation order to 10% effective May 1, 2016; and
- Maintains statewide mandatory water waste restrictions (adopted July 15, 2014).

Note: This scenario assumes regional and/or local mandatory conservation levels would be sustained by the appropriate agency(ies) at necessary levels based upon regional or local supply conditions.

If DWR, based upon available water supply data, establishes SWP Table A deliveries equal to or greater than 3.0 MAF, then the State Board should (1) lift the mandatory 25% state wide conservation order effective May 1, 2016; (2) maintain statewide mandatory water waste restrictions (adopted July 15, 2014); and (3) resume the Governor's voluntary call for conservation without a specific percentage. CMUA also recommends that during this water supply assessment the State Board review water conditions on a regional basis and carefully consider how that may affect the necessity of extending a *statewide* drought Emergency Regulation.

Establishing such criteria would ensure the integrity of the regulation as it develops a process for the rule to be continued based on actual regional and statewide needs. In addition, it would help water suppliers maintain credibility when communicating conservation messages with their customers, particularly if 2016 is an above-average year for precipitation and snowpack.

Refine Proposed Adjustments without Redirecting Impacts

The State Board's proposed adjustments for climate, growth, and drought resilient water supplies align closely with the California Water Action Plan, which focuses not only on conservation but also increasing regional self-reliance and integrated water management throughout the state. CMUA appreciates the Board's recognition of these factors including water suppliers' significant investments but asks that additional consideration be given to the drought resilient supply adjustment to include those made before 2013. This further acknowledgement and adjustment would encourage future investments and also would be consistent with the California Water Action Plan. As these and other modifications are considered, CMUA strongly urges the Board to ensure any changes that are ultimately implemented do not redirect impacts on other suppliers' conservation standards.

In addition to any adjustments, CMUA recommends that the Board reconsider the inclusion of the regional compliance approach in the extended emergency regulation. Allowing regional compliance may encourage creative regional solutions for water conservation. Such an approach would not undermine individual accountability and in fact would encourage all participating suppliers to work diligently toward improving their agency's conservation efforts. The state has long encouraged local solutions to meet requirements and this should not be an exception. In fact, the State Board allows each supplier to decide how to best meet the requirements for their community and if the goal is met through leveraging regional resources, the State Board should support that alternative.

Do Not Include Cap on Adjustments

With the diversity in conditions, supplies, and preparation for drought, there should be no cap on adjustments to a water supplier's conservation standard. While the proposed modifications and the other adjustments proposed by stakeholders may result in a small percentage reduction in statewide water savings, because the current requirement for a 25 percent decrease in water demand has no technical basis, limiting adjustments in conservation standards relative to this goal is not technically sound. The Governor's Executive Order B-36-15 allows for developing a more comprehensive water conservation approach, which should ultimately be based on the need to secure a reliable and sustainable water supply moving forward.

Further, each region should be allowed to operate based upon natural local conditions and imported water agreements. If an agency chooses to develop 10 percent of their supply from a desalination operation, then this sustainable supply should receive a one-to-one adjustment from their total demand. *Continued conservation should be focused on non-sustainable or highly variable supplies.* If local suppliers have planned and invested in sustainable water supplies the State Board should not step in to control a locally managed solution.

Retain Existing Commercial Agricultural Exemption

The State Board is proposing to modify the existing exemption that allows water supplied for commercial agricultural use to be excluded from total potable production. We are concerned about further modifications in the absence of data submitted to the state indicating abuse of the current exemption. In addition, the State Board states that modifying the commercial agriculture exclusion as proposed could result in only a slight increase of conserved water. The consequences of adding new requirements and additional reporting outweigh any benefits and as a result, CMUA recommends retaining the existing commercial agricultural exemption.

Carefully Consider Financial Impacts

In CMUA's last comment letter, we outlined significant financial impacts and unintended consequences of extreme conservation over a significant period of time, including results from an ACWA-CMUA survey that indicated more than \$500 million of additional costs and lost revenue for the 73 respondents over just the 270-day period (June 2015-Feb 2016) of the emergency regulation. As we noted, these impacts include revenue stability and affordability issues, demand hardening (i.e.,

reduced buffer for managing demand during exceptionally dry years), and the impacts to the local and regional economies. These impacts cannot be overstated and should be carefully considered when adopting an extended regulation, particularly when designing a mechanism for reducing the conservation restrictions should regions and/or the state receive normal or above-normal rainfall throughout the spring.

Add a Statement to Resolution Regarding Grant Funds

As a final point, CMUA previously recommended that the State Board include in its final resolution a statement strongly encouraging all state agencies to expedite the distribution of any grant funds awarded to water suppliers. As mentioned above, the existing regulation has had measureable financial impacts including revenue losses and unanticipated costs for community outreach, paid media, and enforcement. These additional expenditures are magnified when anticipated grant revenues for other programs are delayed, sometimes by years.

Thank you for considering CMUA's comments and for engaging stakeholders throughout the development of the existing regulation and the potential extension of the emergency rule. CMUA supports Governor Brown and the State Board's efforts to manage the state's multi-year drought and our member agencies will continue playing a leadership role in making "conservation a California way of life." Please contact me at 916-326-5800 or dblacet@cmua.org should you have any questions.

Sincerely,



Danielle Blacet
Director for Water

cc: Tom Howard, Executive Director, State Water Resources Control Board
Eric Oppenheimer, Chief Deputy Director, State Water Resources Control Board
Max Gomberg, Climate Change Advisor, State Water Resources Control Board