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January 28, 2016

Ms. Felicia Marcus
Chair
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100



Subject: SWRCB Proposed Extended Emergency Regulation: Further Adjustments Needed to Avoid Penalizing Early Investment in Local Water Supply Development

Dear Chairwoman Marcus:

As California continues to face emergency drought conditions, we recognize the challenges that the State Water Resources Control Board has been tasked with in asking water providers to reduce their usage to meet the Governor's call for a reductions in water use. Equally as important, we understand that this drought has demonstrated the importance of all Californians working together for a common goal in reducing water usage and conserving our limited and valuable water supplies throughout our state.

It is with those factors in mind that we strongly urge you to recognize the diversity in water needs across the state and support those agencies that have invested early in conservation and water supply planning to meet the needs of the communities they serve. While we appreciate that continued action must be taken throughout the duration of the current drought, and that the proposed extended Emergency Regulation does make modest adjustments to account for equity and sustainable supplies, it is evident that it does not provide adequate or appropriate credit to support the early investments made by water suppliers to ensure their regions were prepared for extended droughts, such as the one we are currently in.

The recently released California Water Action Plan 2016 Update clearly details that there is an ongoing need to work together to invest in local water supplies, "To make regions more self-reliant by reducing water demand and by developing new or underused water resources locally." (Pg. 4, California Water Action Plan Update). The Plan also states that "...most new water will come from a combination of improved conservation and water use efficiency, conjunctive water management (i.e., coordinated management of surface and groundwater), recycled water, drinking water treatment, groundwater remediation, and brackish and seawater desalination." The Administration's plan clearly indicates that advancing the broader use of alternative, local water supplies is a priority of the state. However, many Riverside County water agencies have long served as models of the implementation of such local supply development. Through the use of advanced recycled water treatment and application, groundwater desalination and

regional conjunctive use projects, these providers have for several decades put into practice the same actions that the Administration has called on agencies to invest in statewide.

Some of these agencies have used 100 percent of their recycled water supplies for beneficial use and advanced world-class groundwater desalination programs through ratepayer investments made prior to 2013. Because these agencies were at the forefront of local supply investments, they have fallen outside of the scope of eligibility for much of the credits outlined in the proposed Extended Emergency Regulation. In short, their investments have been discredited simply because they were proactive and chose to embrace local supply investments prior to The Administration's push for all agencies to do so.

The Water Conservation Act of 2009 (Senate Bill 7X7) required water suppliers to reduce their per-capita, per-day usage 20 percent by the year 2020, with at least a 10-percent reduction in water use by the year 2015. Most agencies in western Riverside County embraced these mandates and continued making aggressive investments to become statewide leaders in water use efficiency. The result was that many agencies surpassed their SB 7X7 requirements prior to the 2014 drought declaration. However, the release of the proposed Emergency Regulation asked these agencies to continue to reduce their potable water use compared to neighboring agencies in coastal communities with cooler climates. The State Board has had adequate time to explore the best approach to establish the next phase of Conservation Mandates and has involved agencies in working groups to gain a better understanding of the challenges faced by practitioners in the field. The updates to the Conservation Regulation presented the State Board with an opportunity to establish mandates that better aligned with objectives within the California Water Action Plan and appropriately account for the climate variation, growth and investments in local water supplies. Instead, the adjustments proposed are limited and the arbitrarily selected timeframe (2013) benefits only a select few agencies. Additionally, the State Board has failed to define a clear, unambiguous pathway toward defining what constitutes an end to the drought.

With this in mind, the undersigned legislators strongly request that the State Board reconsider its proposed Extended Emergency Regulation, as we believe the current draft disproportionately penalizes many agencies.

We strongly urge the State Board to consider a model that accounts for the following in any final regulations:

- **Recognize both pre-2013 and post-2013 sustainable supply investments** – Both targets and credits should recognize conservation and water supply investments in achieving statewide water use efficiency goals. Doing so would avoid penalizing agencies that invested aggressively and wisely in sustainable local supply investments prior to 2013. This action would also recognize the advancements that have been made by expanding local water supply sources since the drought commenced.
- **Eliminate credit caps on adjustments** - Placing a cap on adjustments disproportionately impacts regions and providers that experiencing multiple factors such as climate and growth. If an agency has numerous factors affecting its ability to achieve conservation targets or has developed drought resilient supplies, these impacts should not be discounted and capped. Placing a cap on credits and adjustments continues the inequitable treatment of communities with warmer, drier climates, economic growth, and historical investments in both pre-2013 and post-2013 sustainable supplies. The State Board is recognizing that credits and adjustments are necessary to address inequities in

the Emergency Regulations, and the full benefit of these credits and adjustments should be given.

- ***Simplify adjustment calculator for population growth*** – The proposed method for calculating a growth adjustment is unnecessarily complex and does not properly recognize or adjust for the impacts of growth on an agency's ability to meet its Conservation Standards. Both the calculation proposed to estimate new demand and the adjustment method in the proposed regulatory framework should be amended to accurately account for the significant impact of growth that some agencies are experiencing now and will continue to experience in the future.
- ***Establish criteria for ending the drought emergency*** – Permanent adjustments needed to be made to account for climate change and addressing California's cyclic pattern of drought. However, the continued heavy-handed reduction mandates are resulting in "drought fatigue" for even the most ardent supporters of conservation. Water providers and elected leaders need concrete information that they can share with ratepayers and constituents to assure them that there is a plan in place to end the drought emergency. Ending the drought and communicating the "new normal" is an important aspect of moving into the next phase of water management in California.

Water providers from the Inland region met in-good-faith with State Board members and staff several times over the last year, and participated in technical working groups to develop more sophisticated regulations that would accurately address disparities and shortcomings that were identified in the initial 2015 Emergency Regulations. Unfortunately, the draft Extension of the Conservation Mandates falls short of fully addressing the changes that need to occur to establish a fair and technically sound conservation mandate. Additionally, the State Board's failure to account for early supply and conservation investments discourages agencies from asking ratepayers to make those investments, as they may fear they will not be accounted for in future drought cycles.

We are all committed to doing our part during the current drought and embracing conservation as a way of life in California. However, our request is that any additional or future mandates are fair, applied equally and provide some level of relief for residents that have been proactive in investing in local supplies in order to be prepared for situations like this. It is time that we recognized the good work of Californians and that future mandates build off of current law, instead of arbitrary timeframes. We have an opportunity to establish clear policy directives on addressing water use, but those policies must be firmly rooted in existing law for the benefit of all Californians.

Respectfully,

A handwritten signature in black ink, appearing to read 'Richard D. Roth', with a long horizontal line extending to the right.

Richard D. Roth
Senator, 31st District

RDR:cd