

Mark N. Kinsey
GENERAL MANAGER

January 6, 2016

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

Submitted via e-mail to Kathy Frevert at Kathy.Frevert@waterboards.ca.gov

Comments on Proposed Regulatory Framework

Dear Honorable Chairperson Marcus and Board Members,

Monte Vista Water District (District) appreciates this opportunity to submit comments to the State Water Resources Control Board (State Water Board) regarding the regulatory framework proposed by State Water Board staff for extending the Emergency Regulation for Urban Water Conservation (Emergency Regulation).

The District thanks your staff for receiving, considering and, in part, incorporating many of the recommendations from water purveyors across the state submitted as part of your workshop on December 7, 2015. We also complement your staff for establishing clear criteria for review of the proposed regulatory framework: “Staff recommendations are based on the criteria that modifications to the Emergency Regulation be *transparent, intelligible, equitable, reasonable, provide sufficient water savings statewide, and be feasible to implement and enforce.*”

The District appreciates this high standard of review. However, we also feel compelled to point out where the proposed framework appears to us to fall short and require reconsideration.

Climate Adjustment

The District appreciates and supports staff’s recommendation that there should be an adjustment to the existing regulations based on local climate conditions. However, the proposed framework does not appear to provide a basis for limiting this adjustment to no more than four percentage points. By contrast, the climate equity adjustment proposed by water purveyors provides a straightforward calculation applying a water supplier’s percentage deviation from statewide evapotranspiration to its current conservation standard, resulting in a proportionately reduced standard. This, to our mind, is a more equitable, understandable, and transparent approach.



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Additionally, the water purveyor proposal calculates the impact on statewide savings at 2.3 percent, which is within one percentage point of the staff proposal (1.4 percent). We believe this level of impact is proportional to the importance of more equitably implementing the Emergency Regulation for all climate regions of the state.

We request that the State Water Board reconsider the water purveyor climate equity adjustment proposal.

Growth Adjustment

The District similarly appreciates and supports staff’s recommendation that there should be an adjustment to the existing regulations based on growth. Unfortunately, staff’s proposal requires land-use information that will be very difficult for many water purveyors to provide on an individual parcel basis. The proposal, therefore, might be considered inequitable and infeasible to implement, as it depends on the technical capabilities of the water purveyor.

We request that the State Water Board reconsider the growth adjustment to incorporate information that is readily and consistently available to all water purveyors (e.g., consumption data by customer category).

Drought Resilient Sources of Supply Credit

Once again, the District appreciates staff’s recommendation to provide credit for some drought resilient water supplies. However, we strongly object to the proposed limitation of the credit to coastal reclaimed water resources. We believe such a bias is inequitable, unreasonable, and inconsistent with state water policy.

Inland water agencies, including the District, have invested hundreds of millions of ratepayer dollars – and tens of millions of state water bond funds – to reclaim and put to beneficial use local, reliable, and drought resilient water supplies. In our region alone, we have developed over 30,000 acre-feet of reclaimed wastewater for direct reuse and groundwater recharge, and desalinate an additional 30,000 acre-feet of otherwise unusable brackish groundwater for municipal purposes. The state has consistently supported our and other regional collaborations in developing local water supplies, with an emphasis on recycled water as a drought-proof, sustainable source of new water.

In contrast, the proposed framework seeks to only credit “indirect potable reuse of coastal wastewater” due to a perception that it “does not injure another legal user of water or the environment.” This clearly suggests that reuse of inland wastewater does injure other legal users or the environment. Such a discriminatory approach contradicts existing state water policy regarding the uniform benefits of recycled water development. For example, the Governor’s Statewide Water Action Plan states:

California needs more high quality water, and recycling is one way of getting there. The state will adopt uniform water recycling criteria for indirect potable reuse of recycled water for groundwater recharge. Technical and financial assistance will be provided to projects that meet these criteria.

The state’s consistently uniform and non-discriminatory approach to supporting, funding, and regulating local water supply development stands in sharp contrast to the proposed framework.

We urge the State Water Board to apply the drought resilient sources of supply credit to all such supplies, regardless of geography or coastal proximity.

Groundwater Credits

The District appreciates staff’s review of proposals requesting credits for use of sustainably managed groundwater resources. However, staff’s recommendation to not provide such credits relies on general statements about existing groundwater management structures that appear inaccurate and unrepresentative of adjudicated basins.

A majority of the District’s water supply comes from the Chino Groundwater Basin. The District and 13 other public water providers are parties to an adjudication that has effectively and successfully managed local groundwater resources for 37 years. The fundamental basis for the adjudication is the establishment of a safe yield based on a long-term hydrology incorporating both wet and dry years. Additionally, we and our regional partners have invested hundreds of millions of ratepayer dollars to implement a physical solution to protect groundwater quality and maintain sufficient yields for all producing parties under all climate conditions, now and in the future. Our planning efforts are extensive and fully available for public review.

Contrary to staff assertions, groundwater basins such as the Chino Basin do not rely solely on “existing freshwater resources” to augment supplies, but make use of all available sources, including conserved stormwater and locally reclaimed wastewater, for replenishment purposes. Similarly, all groundwater adjudications are set up specifically to monitor for and, if needed, to enforce against production patterns that may be injurious to other producers. Additionally, over the past two decades adjudicated groundwater basins across the state have developed conjunctive use capacity – again, with the help of millions of dollars in state funds – so they can recharge and store imported water when it is available in wet years for use when it is not available during extended droughts.

Finally, and most importantly, the claim that “self-sufficient, adjudicated basins are not guaranteed to maintain all uses during an extended severe drought” appears to suggest that adjudications are insufficient structures for long-term basin management. The Sustainable Groundwater Management Act and the general legal principles governing state water management suggest otherwise. Dismissing groundwater management structures that are recognized by state law, and that have the documented ability to manage groundwater resources under drought conditions, does not appear to us to be “adequately transparent, intelligible, implementable, or reasonable for an Emergency Regulation of limited duration.”

We urge the State Water Board and staff to reconsider how the proposed framework addresses the adequacy of adjudicated groundwater basins in the state under drought conditions.

We also request that the State Water Board consider an appropriate credit for groundwater basins that can document available supplies in excess of replenishment needs from surface water sources over an extended time period (e.g., four years).

Regional Compliance Approach

The District works closely with regional agencies and partners on groundwater management, local supply development, and water use efficiency programming. We are a member of a regional alliance for the purpose of compliance with SBX7-7 requirements. Contrary to staff assertions, the regional compliance approach does not reduce individual water supplier accountability, as each agency must still meet its individual reduction goal if the region is unsuccessful in meeting its regional goal. Staff's reasoning also appears to contradict the policy of the original Emergency Regulation which provides water agencies with flexibility on how they achieve their demand reduction targets. Most importantly, a regional compliance approach is consistent with state water policy which supports regional approaches and solutions to water resource management issues.

For these reasons, we believe the State Water Board should consider adding a regional compliance approach to the Emergency Regulation.

A Cap on Credits and Adjustments

Staff recommends a four percent cap for all credits/adjustments. However, this recommendation is offered without any justification, which does not meet the criteria for transparency.

We request that an overall cap on credits or adjustments be rejected unless a specific reason is given in support for its necessity.

Adjustment for Measured Changes in Water Supply Conditions

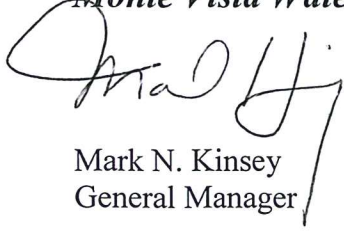
The proposed framework does not discuss adjustments for changes in statewide water supply conditions due to increased precipitation. The District believes that a transparent and science-based metric should be developed for determining whether existing drought conditions continue to merit existing urban demand reductions. The Department of Water Resources and other state agencies track water supplies across the state and use a number of measurements – snowpack, streamflow, reservoir storage, etc. – to determine drought conditions and supply predictions. Using these measurements, the State Water Board should be able to develop a transparent process for determining if across-the-board adjustments to demand reduction requirements are justified as water supply conditions change.

We recommend that the State Water Board direct staff to work in partnership with the Department of Water Resources and interested stakeholders to develop a standardized metric using generally accepted measurements of water supply conditions to determine ongoing demand reduction requirements.

Monte Vista Water District appreciates your and your staff's time and consideration in reviewing our comments. If you have any questions, please feel free to call me directly at (909) 267-2170.

Sincerely,

Monte Vista Water District

A handwritten signature in black ink, appearing to read "Mark N. Kinsey". The signature is written in a cursive style with a large initial "M" and a long, sweeping tail that extends downwards and to the right.

Mark N. Kinsey
General Manager