



...Dedicated to Community Service

2554 SWEETWATER SPRINGS BOULEVARD, SPRING VALLEY, CALIFORNIA 91978-2004
TELEPHONE: 670-2222, AREA CODE 619
www.otaywater.gov



February 13, 2018

The Honorable Felicia Marcus, Chair
and Members of the State Water Resources Control Board
c/o Ms. Jeanine Townsend, Clerk of the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-2000

Sent via email to: commentletters@waterboards.ca.gov

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

Dear Chair Marcus and Members of the Board:

The Otay Water District (the District) along with its wholesale water agency, and other retail agencies in San Diego County have been “Making Conservation a California Way of Life” for more than 25 years, with potable per capita water use decreasing by more than 40 percent since the early 1990s. The District also supports long-term water-use efficiency as an integral part of a diverse portfolio of water management strategies to ensure a reliable water supply for California.

The District recognizes that the State Water Resources Control Board (SWRCB) revised the proposed regulation in response to comments submitted by the District, the San Diego County Water Authority, and other water agencies. The District is pleased to provide comments on the January 31, 2018, version of the proposed regulation prohibiting wasteful water-use practices. The comments below reflect the District’s commitment to advancing water-use efficiency through flexible approaches, practical implementation, acknowledging local ordinances, and cost-effective programs.

The District’s comments are as follows:

- **Do not include a specific metric to define “measurable rainfall.”**

Defining “measurable rainfall” in Section 963(b)(1)(E) as at least one-fourth of one inch of rain makes it difficult for the general public to determine if the amount of local rainfall reached or exceeded the threshold that triggers the proposed prohibition. A region can have multiple microclimates that result in varying amounts of rainfall within a region. Excluding a specific metric to define “measurable rainfall” allows local water suppliers to more effectively engage in public outreach, providing for more practical implementation locally and more effective implementation of the proposed prohibition.

- **Delete reference to recycled water in Sections 955(a) and 963(b)(1)(G)(iii).**

Our prior letter requested that the SWRCB allow irrigation of existing turf medians with recycled water. We appreciate that the SWRCB recognized the importance of protecting investments in recycled water by allowing irrigation of turf with recycled water through an irrigation system that was installed prior to January 1, 2018. However, considering that the SWRCB did not provide an analysis to support the SWRCB's jurisdiction over recycled water in these regulations, we are concerned that the SWRCB lacks authority to consider the reasonableness of use of recycled water in these regulations. Moreover, in the San Diego region, recycled water that is not beneficially used is discharged to the oceans as a waste, and the proposed regulations will limit the ability to develop recycled water locally. Therefore, we request the reference to recycled water in Sections 955(a) and 963(b)(1)(G)(iii) be deleted from the proposed regulation.

- **Provide grant funding to local governments to perform landscape retrofits of publicly owned and maintained turf areas on medians and parkways.**

Under Section 963(b)(1)(G) of the proposed regulation, the irrigation of turf on publicly owned and maintained street medians and parkways would be prohibited as of January 1, 2025. We remain concerned that the SWRCB's analysis of the economic and fiscal impacts of the proposed regulation fails to acknowledge and identify the significant fiscal impacts on local governments. This is especially true with cities that administer landscape maintenance districts (LMDs). LMDs are areas within a city that receive a special benefit of landscape improvements above and beyond services that the city typically provides. These areas frequently include turf areas on street medians and parkways.

Revenues collected by a city through an LMD assessment on a resident's property tax bill pay for landscape maintenance, water, and capital projects and are also subject to Proposition 218. Notably, many LMDs are on a fixed budget year-to-year and do not have a consumer price index built into the annual assessment. These factors make it very difficult, or even impossible, to do capital projects within the LMD. As a result, many cities and counties do not have the financial resources to convert their street medians and parkways to water-smart landscaping and will simply stop watering under the proposed prohibition. Providing sufficient financial resources to local governments will allow for well-planned landscape retrofits.

- **SWRCB should coordinate with land use planning agencies, such as California State Association of Counties and League of California Cities, and directly with cities and counties to solicit their input.**

As mentioned in the comment letter dated Dec. 14, 2017, from the Water Authority, the District, and other agencies, the permanent regulation will affect most cities and counties in the state of California and the SWRCB must reach out to these municipalities and solicit their input. The cities and counties are the entities that set the landscape regulations.

- **Proposed prohibition should consider local water supply conditions**

We are concerned that Section 963(b)(1)(F) links a proposed prohibition on water use to the declaration of a state of emergency by the Governor regardless of local water supply conditions. Because the proposed regulation imposes a prohibition that is tied to a condition of urgency

that bears no relationship to local water supply conditions, we recommend that the proposed prohibition to “serve drinking water other than upon request” be removed from the proposed regulation and be reserved by water suppliers as a local water shortage emergency measure/communication tool.

- **SWRCB jurisdiction over proposed regulation.**

In our December 14, 2017, joint letter with the Water Authority and other water agencies we asked the SWRCB to provide its rationale as to why it has jurisdiction to enact its proposed regulation. The SWRCB did not provide any analysis of this issue. The District, along with the Water Authority, share some of the jurisdictional concerns raised by the San Francisco Public Utilities Commission and the Bay Area Water Supply & Conservation Agency in their joint letter to the SWRCB dated December 22, 2017. The District is concerned that the SWRCB is unilaterally attempting to expand, and exceed, its proper jurisdictional boundaries in both this matter and others before it.

The District appreciates the opportunity to comment on the changes to the proposed regulation prohibiting wasteful water use practices. If you have questions, please contact me at mwatton@otaywater.gov or (619) 670-2210.

Sincerely,



Mark Watton
General Manager
Otay Water District