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January 27, 2016

Clerk to the State Water Board  
State Water Resources Control Board  
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[commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)

Regarding: 2/2/16 BOARD MEETING (Conservation Extended  
Emergency Regulation)

The Mountain Counties Water Resources Association (MCWRA) appreciates the opportunity to comment on the proposed regulatory Emergency Regulation for Statewide Urban Water Conservation framework that the State Water Resources Control Board (Board) will consider adopting on February 2, 2016.

While the proposed text in Article 22.5 Drought Emergency Water Conservation does provide minor concessions for water agencies to slightly lower their conservation standard in certain areas, which is appreciated, the Board is encouraged to probe the rationale in staff's decision making process and consider making further adjustments in the proposed text as outlined below.

**Page 1 - Sec 863 (a) (6)** states that drought conditions will likely continue for the foreseeable future. This is an assumption and should not be stated as fact. Suggest the statement read "if ~~states that drought conditions will likely continue for the foreseeable future...~~"

**Page 5 - Sec 865 (4) (e) (1) (E)** provides for a subtraction of potable water from commercial agriculture use **IF** the water agency can certify that water used for ornamental landscapes is not included. This requirement is unreasonable and not feasible and the Board should consider deleting Sec 865 (4) (e) (1) (E). This would require installation of a separate metering device on the property to account of nominal landscape on commercial farms and ranches. This will place an unnecessary burden on the farmer or rancher to pay for connection fees, additional billing charges, and construction and installation costs.

**Page 5 - Sec 865 (4) (e) (2)** provides the Board with the ability to impose significant civil consequences for false material submitted to the State. The Board should

consider clarifying this statement as it implies that the violation and penalty would be borne on the water agency, when the certification information and authenticity required in **Sec 865 (4) (e) (1) (D) on Page 5** is the responsibly of the individual ratepayer.

**Page 6 - Sec 865 (4) (f) (2) (B)** provides a lower tier standard for service connections since January, 2013, **IF** the water agency can calculate the landscape area by connection in square feet served by the water agency. In many areas of the state including this region, smaller water agencies and those in disadvantaged communities do not have the financial resources to acquire the information and would be unable to benefit from this costly, time-consuming, and complicated exercise. In addition, Item (A) in this section permits a water agency to factor in 55 gallons per day credit per resident into the calculation for new connections since January 2013. Using 55 gallons per day per resident is an unrealistic number for this exercise if you consider the many statewide variables. According to the state's R-GPCD data, water use varies widely by hydrologic region and, therefore, should be reflected in this section. The Board should also consider directing staff to streamline and simplify the process to improve equity and to provide the ability for all water purveyors to achieve a lower standard tier.

As stated in previous written comments, MCWRA's primary concern with the proposed regulation is the continued inequity within its framework and the several matters of importance excluded from the latest proposal. While the proposed regulatory framework does provide some flexibility and takes into account climate and population growth, the Board should continue to refine the text to include the following:

The Board should consider factors in the text for:

1. Statewide winter equalization standard
2. Rural and Urban Environments
3. Sierra east slope-west slope differences
4. Snow making to support the aquifer
5. Infrastructure repair and replacement that reduces overall consumption or reduces flows from tributaries.
6. Ground Water

Statewide winter equalization standard – The Urban Water Supplier Conservation Tiers should be equalized statewide during the winter months as there is little if any irrigation that occurs during this time. Data that the State has collected shows that winter per capital indoor demands are virtually the same statewide, yet conservation tiers range from 8% to 36% depending on where you live. It is not equitable to require one household to conserve 8% indoors while another household is required to reduce indoor usage 36%.

Rural and Urban Environments – vary greatly because high population urban densities tend to use less water per person than do more rural areas since high density dwellings tend to have shared outdoor spaces and there is less landscaped area per person that needs to be irrigated.

Rural Environments account for and promote “open space”, “wildlife habitat”, “locally grown food from small farm endeavors”, “recreation”, and “tourism”. These are socio-economic drivers that define rural communities and differentiate Rural from Urban Environments. The Board is encouraged to consider a lower tier standard for Rural Environments and their communities.

Sierra east slope-west slope differences – There should be consideration for water suppliers on the east slope of the State of California where water flows to Nevada and not to California.

Snow making to support the aquifer – The Emergency Conservation Regulations subtracts water for agricultural use under Government Code Section 51201 Subdivision (b). The revised regulations continue to allow for this exception if there is a certification that the customers whose water use is subtracted produce a minimum of \$1,000 per year in revenue. Water used for snow making on public recreation lands should be included in this exception using the same certification standards. The recreational use of land is recognized as beneficial in this same Government Code Section. In addition, snow making is an absolutely critical component to the winter-time economy of some mountain communities and is beneficial to both the environment and the State's water resources. Over 80% of the water used for snow making is returned to the environment as groundwater recharge or runoff of streams and lakes.

Infrastructure repair and replacement that reduces overall consumption or reduces flows from tributaries – The cost of implementing the conservation regulations and regulatory mandates (SB 88) takes funds away from capital projects and operations that will result in conserving water. For example, the cost to bring on additional enforcement staff takes funds from replacement of leaking water lines and water meter installation. Credit should be given for system improvements that reduce demand from the tributaries.

Ground Water – **Page 4 - Sec 865 (c) (2)** states that a water supplier with a minimum of four years' reserved supply of surface water is able to reduce their conservation standard by 4%. There is no such provision for water suppliers whose primary source is groundwater. An equitable credit should be given to suppliers where the total of all ground water extraction is less than the annual recharge of the ground water basin.

MCWRA appreciates that the Board previously asked how it should account for precipitation after January, 2016, in its implementation of any extension of the Emergency Conservation Regulations. However, there is no criterion in the proposed regulations to gauge appropriate regulatory actions based on the level of the drought or specific findings as to when the Governor should declare that the drought is over and thus rescind the emergency declaration and emergency conservation regulations.

*For example in the Emergency Regulations Digest (1/22/16) it reads:*

*Page 1 – **First Paragraph** – The State Water Resources Control Board (State Water Board or Board) finds that an emergency exists due to severe drought conditions and that adoption of the proposed emergency regulation is necessary to address the emergency and extend and adjust current restrictions until rain and snowfall place the State in the position where the existing restrictions are no longer necessary.*

*Page 3 – **Reservoirs** – While these levels have been and will hopefully continue to rise, significant rainfall will be needed to offset the past years of drought conditions.*

*Page 3 – **Precipitation and Snowpack** – (with reference to precipitation and snow water content) While these levels are encouraging, there are still large deficits to make up.*

These comments are vague and the Board is encouraged to consider the benchmarks when the other major droughts were widely considered to have ended: 1938, 1978 and 1993 and identify those benchmarks in the proposed text.

Lastly, the Water industry acknowledges that the Executive Order directs the Board to extend the restrictions until October 31, 2016 if the drought persists through January, but it also provides latitude to the Board.

To combat the historical drought, this region has sacrificed this past summer by making deep cuts in water usage, which has resulted in socio-economic losses, habitat losses, quality of life changes, and will result in costly landscape repair and replacement. A significant Sierra snowpack, rising or full reservoirs, and the extended Emergency Conservation Regulations, as proposed, will send a mixed message to ratepayers gauging the obvious and anxious for the drought to be over. It is critical that the Board be flexible and responsive now and during the coming months to maintain public support.

In consideration of the significant conservation successes this past summer, the fact that the winter months require little outdoor irrigation and indoor use to a great extent has hardened, the Board is encouraged to provide additional flexibility and consider these suggested improvements and those of the MCWRA members in your decision making process and Emergency Conservation Regulations.

Thank you for the consideration. If you have any questions, I can be reached at 530.957.7879.

Sincerely,



John Kingsbury, Executive Director  
Mountain Counties Water Resources Association

c: Felicia Marcus, Chair, State Water Resources Control Board  
State Water Resources Control Board Members  
Board of Directors, Mountain Counties Water Resources Association

The Honorable:

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