



RURAL COUNTY REPRESENTATIVES  
OF CALIFORNIA

April 30, 2015

Ms. Jeanine Townsend  
Clerk of the Board  
State Water Resources Control Board  
1001 I Street, 24<sup>th</sup> Floor  
Sacramento, CA 95814

Transmit via E-Mail: [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)

**RE: Proposed Drought Emergency Water Conservation Regulations**

Dear Ms. Townsend:

On behalf of the thirty-four member counties of the Rural County Representatives of California (RCRC), I appreciate the opportunity to submit comments on the proposed Drought Emergency Water Conservation Regulations for implementation of the statewide 25% reduction in urban potable water use mandated by Governor Brown's April 1 Executive Order. RCRC is governed by a thirty-four member Board of Directors composed of one County Supervisor from each of our member counties.

I would like to take this opportunity to thank the members of the State Water Resources Control Board (State Water Board) and staff for the two conference calls to brief counties on the expedited process underway and to seek informal comments on regulation development for Executive Order Provisions 2, 5, 6 and 7 prior to this formal notice of proposed rulemaking.

RCRC notes that the proposed Drought Emergency Water Conservation Regulations incorporate a number of comments and suggestions made on the regulatory framework document and draft regulation. This includes expansion of the number of tiers and, under certain circumstances, allowing the modification of the amount of water subject to the conservation standard and providing a means to move into a lower conservation tier.

RCRC appreciates that the State Water Board and staff are laboring under very strict timelines as a result of Governor Brown's Executive Order, and that staff is endeavoring to address concerns raised within the current constraints of the proposed

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deadlines i.e. formal notice of proposed rulemaking on April 28<sup>th</sup> and State Water Board hearing and adoption on May 5<sup>th</sup>.

RCRC understands that the Drought Emergency Water Conservation Regulations are intended to be a short-term response (270 days) to the drought, however there is the potential for long-term impact. The issue of “fairness” has been brought up repeatedly in response to the proposed use of R-GPCD without consideration of other relevant factors such as climate, population density, etc. Fairness clearly will be difficult, if not impossible, to address in the emergency regulations given the proposed timeline. Given this reality, RCRC urges the State Water Board to include in the regulations a process to allow for exceptions when there are extenuating circumstances.

The April 28 Fact Sheet requests feedback on whether the conservation framework should be modified to double the number of tiers and use two percent increments instead of four percent. RCRC agrees that this change would provide further refinement for water suppliers that find themselves on one side or the other of a tier, but it does not remedy the fundamental problem previously identified - the proposed use of R-GPCD without consideration of other relevant factors.

As noted earlier, the proposed regulation provides certain limited exceptions under which a water supplier may apply for inclusion in the four percent tier. The Fact Sheet requests feedback on whether the regulation should allow water suppliers whose supplies include groundwater to apply for inclusion in the four percent reserve tier if it can be demonstrated that they have a minimum of four years of supply, do not rely on imported water, and their groundwater supplies recharge naturally. RCRC supports additional flexibility in the regulations for those areas of the state that have a sufficient water supply, but we cannot express an opinion on the specific criteria proposed for lack of data upon which to base an opinion.

Section 864 (a) (8) would prohibit “the irrigation with potable water outside of newly constructed homes and buildings in a manner inconsistent with regulations or other requirements established by the California Building Standards Commission” (Commission). RCRC had previously commented on Section 864 (a) (8) during the informal comment period suggesting that to facilitate enforcement and to avoid confusion that the regulation specify at what point in the construction/permitting process this new prohibition would apply. With the addition of the Commission to (a) (8) is it the intent of the State Water Board that the Commission would make this determination?

RCRC had also previously commented on Section 864 (c), suggesting that the language be clarified so that the public would have a clearer understanding of what prohibitions apply to them as failure to comply, in addition to any other applicable civil or criminal penalties, is an infraction punishable by a fine of up to five hundred dollars

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(\$500) for each day in which the violation occurs. RCRC believes that the changes made to (c) are an improvement.

The recent Court of Appeal decision *Capistrano Taxpayers Association, Inc. v. City of San Juan Capistrano* relating to Proposition 218 and “tiered” rates adds to the complexity of water supplier implementation of the proposed regulation. RCRC suggests that the State Water Board consider providing impacted water suppliers with guidance as to how to comply with the regulations while at the same time not run afoul of Proposition 218.

In conclusion, RCRC appreciates your consideration of these comments. If you have any questions please contact me at [kmannion@rcrcnet.org](mailto:kmannion@rcrcnet.org) or (916) 447-4806.

Sincerely,

A handwritten signature in black ink that reads "Kathy Mannion". The signature is written in a cursive, flowing style.

KATHY MANNION  
Legislative Advocate

cc: The Honorable Felicia Marcus, Chair  
The Honorable Frances Spivy-Weber, Vice Chair  
The Honorable Dorene D'Adamo, Board Member  
The Honorable Tam Doduc, Board Member  
The Honorable Steven Moore, Board Member  
Mr. Tom Howard, Executive Director  
Ms. Caren Trgovcich, Chief Deputy Director