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Sent via e-mail to: Jessica.Bean@waterboards.ca.gov

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April 22, 2015

Jessica Bean

Engineering Geologist

State Water Resources Control Board

1001 I Street, 24th Floor

Sacramento, CA 95814

Subject: Drought Emergency Water Conservation Regulation – April 18 draft

Dear Ms. Bean:

The California Municipal Utilities Association (CMUA), representing 40 water agency members that deliver water to over 70% of Californians, appreciates the opportunity to comment on the State Water Resources Control Board (SWRCB) staff's *Drought Emergency Water Conservation Regulation* (emergency regulation) and the draft table *Urban Water Suppliers and Proposed Regulatory Framework Tiers to Achieve 25% Use Reduction* (Tiers document) released on April 18, 2015. As stated in our previous comments, CMUA and its members support Governor Brown and the SWRCB's efforts to manage the state's ongoing drought. We recognize the short timeframe for developing a draft regulation and appreciate the consideration of our previous comments, particularly the inclusion of some of our recommendations. After reviewing the draft regulation, the new draft Tiers document and the fact sheet, our member agencies would like to reiterate a few key recommendations from our first letter and offer additional suggestions for the SWRCB to consider when developing the final draft emergency regulation:

- **Messaging/Outreach:** CMUA would like to reemphasize the importance of a robust messaging and outreach campaign by the SWRCB and other state agencies throughout the implementation of this regulation. CMUA strongly encourages elevating the amount and types of outreach by the Administration, the SWRCB and the news media to communicate the new rule. The emergency nature of this regulation will require a more focused set of objectives and priorities than existing conservation efforts. For example, explaining the different tiers will be critical, especially if there are areas of the state where water suppliers within the same or adjoining service areas have different reduction

requirements.¹ To avoid confusion among customers, outreach should include as much information as possible about the origin of the adopted tiers, why communities have different requirements and the best *short-term* solutions during a drought emergency. Additional outreach also should focus on education for landscape contractors, nurseries, and local colleges and universities on proper irrigation techniques/guidelines for maintaining different types of landscapes while reducing potable water use.

- **Compliance/Enforcement:** CMUA continues to recommend that the emergency regulation include a provision that will assist those water agencies adhering to all aspects of the regulation (including Section 866) and making steady progress but not meeting the assigned water use reduction target. While CMUA members have been encouraging or mandating conservation among their customers and will continue to do so with the new rule, there is concern that despite good faith efforts a water supplier may not reach their mandated conservation target. According to the SWRCB, this could result in a Cease and Desist Order and significant penalties of up to \$10,000 per day, which would be levied at a time when many suppliers already are facing reduced revenue due to conservation activities. Please see our recommended language to add to the rule below:

Subdivision 866(c): A Cease and Desist Order will not be issued solely for the failure of a water supplier to meet the assigned water use reduction target as long as the water supplier complies with all other provisions in the emergency regulation including the steps outlined in this section.

Additionally, we suggest that the SWRCB return a percentage of any penalties that are levied to the affected service area, earmarked for conservation and efficiency measures. If necessary to facilitate this action, we encourage the SWRCB to work with the Administration and the Legislature on an appropriate legislative solution.

- **Urban Suppliers with Fluctuating Populations:** CMUA recommends that water suppliers with populations that fluctuate over 30% based on seasonal tourism or other factors be allowed to submit adjusted R-GPCD information by June 1 that takes into account transient populations, or population influxes. Please see our recommended language to add to the rule below.

Subdivision 865(c)(11): Each urban water supplier that can demonstrate it has a population influx of more than 30% can submit an alternative metric for measuring R-GPCD by June 1 to be considered by the Executive Director, or his designee, which may reduce their Tier by 4 percent.

- **CII Sector Use:** CMUA previously recommended that water agencies be allowed to report total usage for the commercial, industrial and institutional sector, rather than separate by customer type because agencies are not always able to accurately calculate this sector category. We request that if water suppliers can demonstrate their customer accounts are not divided by customer class, they should be allowed to submit a single estimate until the supplier can gather additional information.
- **Reductions from Wholesalers/State or Federal Contracts:** CMUA asks that consideration be given to those urban water systems that are subject to restrictions from wholesale suppliers (e.g. Metropolitan Water District recently restricted deliveries to retailers by 15 percent) as those cutbacks amount to an automatic reduction in water use. In addition, we recommend that consideration be given to water suppliers that are reliant upon a single source of water provided through a state or federal contract if

¹ CMUA does not have a comment regarding a regional water conservation standard at this time.

they have already experienced severe cutbacks as further restrictions may reduce their water use to an unmanageable level.

- **Rebates/Incentives:** CMUA strongly encourages the SWRCB to work with the California Energy Commission to accelerate the implementation of the appliance rebate program defined in the Executive Order as this program will be helpful in meeting each supplier's water use reduction target. We also recommend that the SWRCB work with the Department of Water Resources on a strategic approach to implementing the turf replacement program outlined in the Order. Replacing turf with drought-tolerant plants has proven to be a long-term solution for reducing water use in communities, but removing grass in residential areas and installing new plants, even if they are drought-tolerant, may not immediately result in significant potable water reductions.
- **Public Health Considerations/Air Quality:** CMUA encourages the SWRCB to work closely with the California Air Resources Board (ARB) and local air quality districts as the emergency regulation is implemented to maintain existing local air quality rules when reducing outdoor irrigation and removing turf so these activities do not adversely impact healthy communities. In particular, the SWRCB should work with suppliers where further water reductions would increase air pollution or reduce visibility from dust/dirt in open space areas due to the removal of existing turf in residential communities, institutions, local schools and colleges, and from state and local parks.

Thank you for considering CMUA's comments and for engaging stakeholders throughout the development of this regulation. Please contact me at 916-326-5800 or dblacet@cmua.org should you have any questions.

Sincerely,



Danielle Blacet

Director for Water

cc: Felicia Marcus, Chair, State Water Resources Control Board
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