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January 28, 2016

Chair Felicia Marcus and Board Members
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814
Sent via electronic mail to: Kathy.Frevert@waterboards.ca.gov



RE: Proposed Regulatory Framework for Extended Emergency Regulation for Urban Water Conservation

Dear Chair Marcus and Board Members:

We appreciate the intensive work of State Water Resources Control Board Members and staff to extend the emergency conservation regulations as we prepare for near-term continuation of severe drought conditions. We have worked alongside the State Water Board as members of the Water Conservation Workgroup to carefully consider and offer feedback on proposed changes to the emergency regulations.

As described in detail in comments, presentation, and dialogue with the Board over the past four months, we believe that these adjustments and credits are generally inappropriate in the context of emergency regulations, and as proposed, would primarily benefit high-consumption service areas pleading hardship while seeking to restore residential water sales. Relaxing conservation requirements while, at the same time, waiving water quality standards due to limited water availability are inconsistent with one another, particularly as some farmers prepare to get little or no surface water and the environment continues to suffer. The more we ease up on urban conservation, the more difficult we make it for our fragile ecosystems and other users.

We are deeply disappointed that the current draft Regulations (dated January 15, 2016) reflect a marked expansion in the scope and application of adjustments and credits. This is despite widespread public adherence to and support for the emergency regulations and opposition from some water stakeholders to the adjustments, credits and exemptions described in the Framework (dated December 21, 2015). In particular, we are disappointed to see the cap for credits doubled from 4% to 8%. The 4% cap provided some assurance that the credits and adjustments would not greatly reduce water savings. The larger cap is a move in the wrong direction.

We incorporate by reference our letters dated October 14, 2015 and January 6, 2016 and maintain our objections to credits and adjustments to the emergency regulations for climate, growth, and new supplies. For some issues raised by water suppliers, such as addressing swamp coolers in disadvantaged communities, we believe that rather than relaxing conservation targets, the Board could use future enforcement discretion to accommodate water agency concerns. Moreover, exemptions for new supplies built since 2013 promotes the development of new supplies instead of conservation. Recent experience in California and elsewhere suggests that this can result in stranded assets while undercutting the new water

ethic we have collectively worked so hard to foster in California – one that, prioritizes the efficient use of *all* water resources, including newly developed local supplies.

Water suppliers have argued that adjustments are necessary because of unanticipated revenue losses due to mandatory conservation. If agencies are losing money because customers are saving water, the response should *not* be to conserve less, but to reform water pricing policies. Urban water management plans are supposed to anticipate and plan for droughts, and water suppliers are directed to develop mitigation strategies to address revenue shortfalls. It has become clear that this directive has not been followed by some water suppliers. The State Water Board has the authority and a mandate¹ from the Governor to “develop rate structures and other pricing mechanisms, including but not limited to surcharges, fees, and penalties, to maximize water conservation consistent with statewide water restrictions.” The Board, however, has failed to follow through on that mandate. To address concerns about financial losses from improved water conservation, we encourage the Board to improve pricing approaches rather than grant exceptions to conservation measures.

Finally, we urge the Board to develop long-term, non-emergency water conservation regulations. Our state’s water management challenges will only become more intense and severe with climate change and continued growth. By helping to eliminate wasteful water practices, the permanent regulations would help to build resilient and sustainable water systems. The well-established principles of beneficial use and avoidance of waste, underscored by persistent drought conditions and the growing manifestations of climate change, afford clear authority and sound rationale for state conservation and efficiency regulations for non-drought periods. We look forward to working with the State Water Board, water suppliers and other partners in the coming months to develop long-term measures to end water waste and ensure that all water is being put to beneficial use.

Sincerely,



Heather Cooley, Water Program Director
Pacific Institute



Tracy Quinn, Senior Policy Analyst
Natural Resources Defense Council



Sara Aminzadeh, Executive Director
California Coastkeeper Alliance

¹ Executive Order B-29-15 directed the SWRCB to adopt emergency regulations directing urban water suppliers to develop conservation pricing structures. The SWRCB has solicited comments on potential rate policies, but has not yet adopted a measure, nor released a plan of action or timetable for doing so.