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January 28, 2016

VIA E-MAIL

Jeanine Townsend  
Clerk to the State Water Board  
State Water Resources Control Board  
1001 I St., 24th Fl.  
Sacramento, CA 95814  
[commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)



Re: City of Bakersfield's Comments on Proposed Text of Extended Emergency Regulation

Dear Ms. Townsend:

We are special water counsel to the City of Bakersfield ("Bakersfield" or "City"). On behalf of Bakersfield, we submit the following comments on the proposed text of Extended Emergency Regulation dated January 15, 2016, which the State Water Resources Control Board ("Water Board") will consider adopting at its February 2, 2016 public meeting pursuant to the Notice of Proposed Emergency Rulemaking dated January 22, 2016.

Bakersfield previously submitted comments to the potential extension and modification of the current Emergency Regulation on December 2, 2015 (Comments to Urban Water Conservation Workshop) and January 6, 2016 (Comments on Proposed Regulatory Framework for Extended Emergency Regulation for Urban Water Conservation), which comments are incorporated herein by reference. Bakersfield also attended and participated in the Water Board's December 7, 2015 Public Workshop on the Emergency Regulation.

Bakersfield supports the proposed modifications to the Emergency Regulation providing credits and adjustments to urban water suppliers' conservation standards that account for differences in climate affecting different parts of the state and also new water-efficient growth experienced by urban areas since 2013.

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Bakersfield also commends the State for allowing urban water suppliers to claim a credit, or offset for the use of potable recycled, reclaimed water, a credit and offset that should be expanded to include the use of Title 22 disinfected tertiary treated **non-potable** recycled, reclaimed water. Bakersfield, along with the Association of California Water Agencies (ACWA) and a number of other entities have previously recommended that any extension of the Emergency Regulation should allow a water supplier to claim a credit, offset or other reduction in water production or R-GPCD to account for use of non-potable recycled, reclaimed water. There is no reasonable basis for limiting the credit or offset to the use of potable recycled, reclaimed water.

Bakersfield maintains that the State should account for and recognize the significant investment in, and use of, Title 22 disinfected tertiary treated non-potable recycled water for outdoor irrigation by urban water suppliers. Bakersfield, for example, utilizes increasing quantities of tertiary treated , or recycled, water for outdoor irrigation, pursuant to the California Water Plan, the Water Board's April 25, 2013 Recycled Water Policy, and the Water Board's mandate to increase the use of recycled water. The City also develops additional water supplies by "de-nitrifying" secondary treated water supplies and recharging into the aquifer, and by using over 330 sumps throughout the City to capture stormwater for recharge and re-use. Bakersfield is currently generating and producing approximately 1,000 acre-feet of Title 22 disinfected tertiary treated recycled water each year for outdoor irrigation and is planning for future expanded use. Out of a total demand of 43,000 acre-feet annually within the City's domestic service area, this equates to approximately 2% of water demand.

Bakersfield and other urban water suppliers, however, have not actually realized any benefit from their continuing investment in, and production and use of, recycled water because Bakersfield was placed in the highest (36%) water reduction tier. Because non-potable water use is not subject to the water use reduction, the City must still seek out greater water use reductions from its potable water use customers. This penalizes all of the City's potable water use customers and results in a de-facto (and inequitable) increase in the conservation standard. Failure to account for recycled water use by urban water suppliers also acts as a disincentive for continued investment in the production and use of recycled and reclaimed water in order to conserve potable water supplies. For these reasons, the Extended Emergency Regulation should contain an additional credit, offset or other reduction that accounts for the reduction in an urban water suppliers' water demand due to the use of non-potable recycled and reclaimed water for outdoor irrigation.

Jeanine Townsend  
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Thank you for the opportunity to provide these comments to the Proposed Text of Extended Emergency Regulation for the Water Board's consideration. Please let us know if you have any questions or require any further information on these matters.

Sincerely,

  
Colin L. Pearce

cc: Alan Tandy, City Manager, City of Bakersfield  
Virginia Gennaro, City Attorney, City of Bakersfield  
Art Chianello, Water Resources Manager, City of Bakersfield