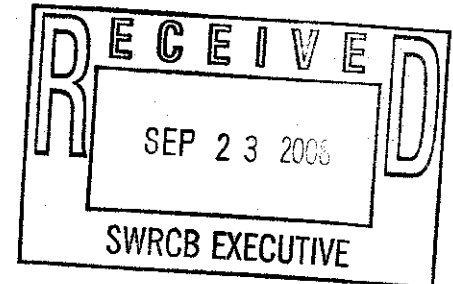




Kaiser Foundation Health Plan, Inc.
Legal Department
1800 Harrison St., 19th Floor
Oakland, CA 94612

September 23, 2008
Via E-Mail: commentletters@waterboards.ca.gov



Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Re: Comment Letter-Proposal to Mandate Water Conservation Management Practices

Chair Dudoc and Members of the Board:

This comment letter is respectfully submitted on behalf of Kaiser Permanente ("Kaiser") in connection with the Urban Water Conservation Regulatory Program (the "Program") being considered by the State Water Resources Control Board (the "Board"). Kaiser generally supports the adoption of the Program, but we have some comments concerning the potential impact of the Program on our ability to provide essential health care services to the community.

The purpose of these comments is to raise the awareness of the Board, staff and the public of the unique water supply requirements of hospitals in California. Hospitals have relatively inelastic water demands to perform essential life-saving and public health related services. Although Kaiser's new facilities are already integrating the most efficient water using facilities available, we are subject to extensive regulations of the Office of Statewide Health Planning and Development ("OSHPD"), and both the OSHPD regulations and our own best-management practices to maintain public health, ensure proper sterilization and prevent the spread of infection, limit additional feasible water conservation measures.

Both existing California law and the description of the proposed Program fail to recognize the specialized requirements of hospitals and their water use. Further, no prioritization has been integrated into the Program that would protect the availability of water supplies to hospitals during drought periods or a reduction of water availability during mandatory cut-backs.

Assembly Bill 2175, which sets forth long-term per capita water use reduction targets for the state, classifies hospitals, along with churches, schools and government facilities, into an overly broad category of "institutional water user." Similarly, one of the key questions before the Board in its consideration of this Program is whether it should adopt water use reduction targets based on current water use sectors (i.e., residential, commercial, institutional, and industrial).

Pursuant to Water Code sections 353-354, in an emergency condition of water shortage, a local water agency is to conserve the water supply for the greatest public benefit, with particular regard to domestic use, sanitation, and fire protection. Only after allocating water for these uses may the agency establish priorities for the use of water for other purposes. Under Water Code section 10632, water supply reductions of up to 50% are permitted to be imposed by urban water suppliers in response to water supply shortages. Based on application of the current classification of hospital water use as an "institutional" use and the relative low priority of this use both in terms of long-term water conservation policy and emergency water shortage policy:

- (a) The urban water shortage analysis adopted by local water agencies as a part of their CEQA analysis fails to recognize the necessity of sustaining water supplies to hospitals throughout anticipated single and multiple-year droughts because of their life-safety functions.
- (b) The Drought Contingency Plans adopted by local water agencies would curtail hospital water supplies during droughts and thereby reduce the ability of hospitals to meet their life safety functions.
- (c) The current operational criteria applied by local water agencies to the planning of new development projects and curtailment of supplies during droughts reduces availability of water supplies to hospitals, cutting them back in advance of restrictions to domestic use and other uses less important to preservation/maintenance of public health and safety; and
- (d) The development of the urban water conservation regulatory program may impose broad water use reduction requirements on all "institutional" uses that are infeasible for hospitals to implement and may have significant cost impacts on the provision of health care.

In order to ensure that hospitals continue to have adequate water supplies to provide medical services and preserve the public health and safety, Kaiser proposes:

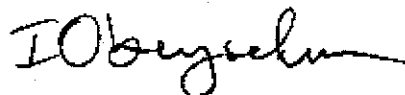
- (a) That the Board re-classify indoor hospital water use as a priority use with respect to the urban water conservation regulatory program, exempt from the proposed legislation or subject to separate conservation targets to be adopted at a later date;
- (b) That the Board direct local water agencies to take into account hospitals' priority designation in the preparation of those agencies' water shortage contingency plans, and that reductions to supply for indoor water use in the event of an emergency water shortage be eliminated or limited; and
- (c) That Water Code sections 353 and 354 be amended to identify indoor hospital water use as a critical use necessary for the preservation of public health.

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Thank you for your consideration of our comments. Please contact me if your staff has questions or if you would like additional information concerning these issues via e-mail at i.obeysekere@kp.org. You may also speak directly with my colleague Catherine Flowers, at (510) 625-5870.

Sincerely,



Indrajit Obeysekere, Esq.
Legal and Entitlements

cc: Hollis Harris
Jim Caroompas
Ronald Wetter
Catherine Flowers
James Brezack
David Gold, Esq. (Morrison & Foerster)
Mitch Randall, Esq. (Morrison & Foerster)